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10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13 SOUTHERN DIVISION

14 UNITED STATES OF AMERICA,  
15 Plaintiff,  
16 v.  
17 JAMAL NATHAN DAWOOD,  
aka "Jimmy Dawood,"  
18 Defendant.  
19

No. SA CR 23-38-JVS

DECLARATION OF MELISSA S. RABBANI  
IN SUPPORT OF GOVERNMENT'S  
OPPOSITION TO MOTION TO EXCLUDE  
DEPOSITION TESTIMONY

21 I, Melissa S. Rabbani, declare as follows:

22 1. I am an Assistant United States Attorney in the United  
23 States Attorney's Office for the Central District of California and  
24 one of the attorneys representing the United States in this matter.  
25 I have personal knowledge of the following facts, and if called and  
26 sworn as a witness, would completely testify thereto.

27 2. After the court granted the government's application for a  
28 deposition of Mr. Battaglia, the parties agreed to schedule Mr.

1 Battaglia's deposition for September 29, 2023.

2 3. On or about September 28, 2023, I learned that Mr.  
3 Battaglia had been admitted to the Intensive Care Unit and was unable  
4 to be interviewed or deposed. I emailed defense counsel that day to  
5 reschedule the deposition.

6 4. The parties ultimately agreed to reschedule the deposition  
7 for October 17, 2023. The deposition did go forward that day in Mr.  
8 Battaglia's hospital room in Orange, California. Mr. Battaglia  
9 received oxygen support throughout the deposition.

10 5. Attached hereto as **Exhibit A** is a true and correct copy of  
11 the transcript of Mr. Battaglia's deposition.

12 6. The government will lodge as **Exhibit B** a true and correct  
13 copy of the video recording of Mr. Battaglia's deposition.

14 7. On November 3, 2023, FBI Special Agent Julie Sawyer called  
15 me to inform me that Mr. Battaglia's family friend had just advised  
16 her that Mr. Battaglia had passed away that morning.

17 I declare under penalty of perjury that the foregoing is true  
18 and correct to the best of my knowledge.

19 Executed on January 16, 2024, at Santa Ana, California.

20 /s/ Melissa S. Rabbani  
21 MELISSA S. RABBANI  
22 Assistant United States Attorney  
23  
24  
25  
26  
27  
28

# Exhibit A

CERTIFIED TRANSCRIPT

**U.S.A.**

**VS.**

**DAWOOD**

---

**THOMAS BATTAGLIA**

*October 17, 2023*

---



**JONNELL AGNEW & ASSOCIATES**  
**(800) 524-DEPO**

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JAMAL NATHAN DAWOOD, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**CERTIFIED  
TRANSCRIPT**

No.  
8:23-CR-00038-JVS  
  
VOLUME I  
Pages 1 - 134

VIDEOTAPED DEPOSITION OF THOMAS BATTAGLIA,  
taken on behalf of the Plaintiff, at  
Providence St. Joseph's Hospital, 1100 West Stewart  
Drive, Orange, California, commencing at 12:13 P.M.,  
on Tuesday, October 17, 2023, pursuant to Court  
Order, before ANDREW T. HA, CSR No. 14537, a  
Certified Shorthand Reporter, in and for the County  
of Los Angeles, State of California.

\*\*\*

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

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14 Also Present:

15 Alan Hernandez, videographer  
16 Caroline Agan, FBI agent  
Rachel Regnier, paralegal for defense  
17 Jamal Nathan Dawood, defendant  
18  
19  
20  
21  
22  
23  
24  
25

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

## I N D E X

WITNESS	EXAMINATION	PAGE
Thomas Battaglia	By Ms. Rabbani	5, 130
	By Mr. Sherman	50

## E X H I B I T S

DEFENDANT'S	PAGE
Exhibit 1 Apartment Deed (8)	86
Exhibit 2 Petition and Order (5)	90
Exhibit 3 Residential Purchase Agreement (8)	94
Exhibit 4 Disbursement Summary (1)	97
Exhibit 5 Amended Declaration of Trust (24)	109
Exhibit 6 Declaration of Trust (20)	105
Exhibit 7 FBI Interview (3)	118
Exhibit 8 Text Messages (1)	127

## QUESTIONS INSTRUCTED NOT TO ANSWER

None.

## INFORMATION REQUESTED

None.

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 ORANGE, CALIFORNIA; TUESDAY, OCTOBER 17, 2023

2 12:13 P.M.

3 THE VIDEOGRAPHER: We are on the record.

4 Today's date is October 17, 2023. The time is

5 12:13 A.M.[sic] Pacific Time. My name is PM 12:13:39

6 Alan Hernandez. I am a notary public contracted by

7 Jonnell Agnew & Associates. I'm not financially

8 interested in this action or a relative of any attorneys

9 or any of the parties. This deposition is taking place

10 at Providence Saint Joseph Hospital located at 1100 West PM 12:13:55

11 Stewart Drive, Orange, California 92868.

12 The name of the case is United States of

13 America v. Jamal Nathan Dawood aka Jimmy Dawood, filed

14 in United States court for the central district of

15 California, southern division. The case number is PM 12:14:21

16 8:23-CR-00038-JVS.

17 Will all attorneys present please identify

18 yourselves and state who you are representing for the

19 record, please.

20 MS. RABBANI: Melissa Rabbani with the United PM 12:14:42

21 States attorney's office.

22 MS. SPENCER: And Kristin Spencer with the

23 United States attorney's office.

24 MR. SHERMAN: Victor Sherman representing

25 Mr. Dawood who is present in court. Also with me is my PM 12:14:56



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 paralegal, Rachel Regnier.

2 MS. RABBANI: And also here with the  
3 Government is FBI Special Agent Caroline Agan  
4 A-G-A-N.

5 THE VIDEOGRAPHER: The court reporter today  
6 is Andrew T. Ha representing Jonnell Agnew &  
7 Associates. Will the reporter please swear in the  
8 deponent and we can begin.

12:15:11PM

9 THOMAS BATTAGLIA,  
10 called as a witness by and on  
11 behalf of the Plaintiff, being  
12 first duly sworn, was examined and  
13 testified as follows:

14 EXAMINATION

15 BY MS. RABBANI:

12:15:41PM

16 Q. Good afternoon, Mr. Battaglia.

17 A. Good afternoon to you.

18 Q. How are you doing today?

19 A. I'm fine. Thank you.

20 Q. Can you state your name for the record?

12:15:47PM

21 A. Thomas Michael Battaglia.

22 Q. And Mr. Battaglia, how old are you today?

23 A. 82.

24 Q. 82.

25 We're in the hospital today; is that right?

12:15:59PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's correct.

2 Q. And you've been hospitalized for some time  
3 now?

4 A. Yes.

5 Q. How long approximately have you been in the  
6 hospital?

12:16:04PM

7 A. Little over two months.

8 Q. Okay. Can you just briefly describe what's  
9 been going on with your health these last two months?

10 A. Last two months basically had a minor stroke  
11 and a heart attack, and these are under control now.  
12 Very very minimal restrictions noted. Extremely  
13 minimal.

12:16:16PM

14 MR. SHERMAN: I'm sorry. I didn't hear that  
15 last bit.

12:16:40PM

16 THE WITNESS: I have very minimal  
17 restrictions that were given to me. I have none.  
18 Really basic. I do everything, except a little  
19 immobile. They're working on that, to get me  
20 stronger on the legs. I do have neuropathy, and I am  
21 a diabetic.

12:17:01PM

22 BY MS. RABBANI:

23 Q. During this time that you've been in the  
24 hospital, have you had any periods where you've been  
25 a little confused or a little out of it?

12:17:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Not really.

2 Q. Not really. And how about today? How are  
3 you feeling mentally?

4 A. I'm feeling fine. Thank you.

5 Q. I'm going to ask you today about your  
6 relationship with Jimmy Dawood. Do you know  
7 Jimmy Dawood?

12:17:23PM

8 A. Yes.

9 MR. SHERMAN: I'd like to interrupt. I'll  
10 object for continuing the deposition today at all  
11 under Rule 15 because the witness has indicated he's  
12 feeling fine, he's not confused. Apparently he has  
13 very minimal restrictions according to his own  
14 testimony. He can do everything. He's a little bit  
15 less mobile than he normally is. He seems in good  
16 health other than lying -- laying in his hospital  
17 bed, so I don't see any need to even continue the  
18 deposition.

12:17:34PM

12:17:48PM

19 THE WITNESS: Could you speak up, please.

20 MR. SHERMAN: I'm sorry.

12:18:02PM

21 THE WITNESS: A little bit.

22 MR. SHERMAN: Yes.

23 THE WITNESS: That'll be great.

24 MR. SHERMAN: Can you hear me now?

25 THE WITNESS: I can hear you better.

12:18:07PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MR. SHERMAN: Too loud for you? Okay.

2 It appears that there's no reason to  
3 continue with the deposition because the original  
4 allegation was, when the Rule 15 motion was filed,  
5 basically that he was on his death bed, and unless we 12:18:20PM  
6 took the deposition right away, he might die before  
7 trial. It doesn't appear that he's in that medical  
8 condition at this point, and whatever problems he had  
9 with a stroke and a heart attack have been minimized,  
10 mitigated by his hospital stay. So I think that 12:18:38PM  
11 whatever may have been the Government's opinion at  
12 the time they ruled -- they made the Rule 15  
13 motion -- doesn't exist today.

14 And the Government had refused to provide  
15 any medical records for the Court to review before 12:18:52PM  
16 the Court granted the Rule 15 motion. So I submit  
17 that the Government has not fully informed the judge  
18 as to what his medical condition was then and  
19 certainly not what it is now, so I will object to any  
20 Rule 15 deposition at all at this point. 12:19:11PM

21 Apart from that, before we started the  
22 deposition today -- and I assume the Government's  
23 going to proceed regardless of my objection -- but I  
24 want to preserve for the record that we had certain  
25 ground rules, and I'm prepared to state what the 12:19:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 ground rules or --

2 MS. RABBANI: I will do that.

3 MR. SHERMAN: Okay.

4 MS. RABBANI: Counsel, your objections are  
5 noted. We will go forward. The Court has the full  
6 record and we can litigate this later.

12:19:31PM

7 BY MS. RABBANI:

8 Q. As for ground rules, Mr. Battaglia, we  
9 talked about this. We have a court order letting us  
10 do the deposition today. We are limited to three  
11 hours on the record, so I'm going to ask you  
12 questions for about 90 minutes, and then  
13 Mr. Sherman -- who's here representing  
14 Jimmy Dawood -- he's going to ask you questions for  
15 the last 90 minutes.

12:19:43PM

16 So this is true in every deposition, but  
17 it's particularly true for you because we're in the  
18 hospital, any time you need a break, you let us know.  
19 Whether it's me asking you questions, whether it's  
20 Mr. Sherman, and we'll take a break and go off the  
21 record and get you whatever you need. Try not to do  
22 it if there's a question pending. Try to just answer  
23 the question, and then ask for the break. But if you  
24 need it, you need it. Does that sound okay?

12:19:56PM

12:20:08PM

25 THE WITNESS: Sounds fine.

12:20:23PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Any time you can't understand a question,  
2 you can ask for the question to be rephrased. You  
3 can say you don't understand. Does that make sense?

4 A. Yes, it does.

5 Q. And if you do answer a question, we're just  
6 going to assume you understand the question. Is that  
7 fair?

8 A. Correct. That's fair.

9 MR. SHERMAN: I think there was additional  
10 ground rules in that the idea was that the Government  
11 agrees that, whatever questions asked today, there  
12 can be objections to the form of the question to  
13 preserve the record for the possibility of litigating  
14 that before the judge at a later time, if it gets to  
15 that, but Mr. Battaglia will be required to answer  
16 the question even if there's an objection.

17 I also want to put on the record that I  
18 understand there's the three-hour time limit that was  
19 proposed by the Government to the judge based upon  
20 the medical condition of the witness, which seemed  
21 very dire at the time they made that request. I  
22 appreciate the Government's going to take only an  
23 hour and a half today, but I will state that, in  
24 preparing for the cross-examination today, there is  
25 no way the defendant can successfully cross-examine,

12:20:34PM

12:20:43PM

12:20:58PM

12:21:14PM

12:21:29PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 through his lawyer, Mr. Battaglia within an hour and  
2 a half period, that my cross-examination, based on  
3 the voluminous amount of material in this case, will  
4 take much longer than an hour and a half, regardless  
5 of how long it takes the Government.

12:21:47PM

6 The Government has indicated to me that if I  
7 need more time I should make an ex parte motion with  
8 the Court and let the Court decide. But it's my  
9 understanding that three hours based solely on the  
10 medical condition of the defendant and was not  
11 intended to restrict the ability of the defendant to  
12 properly defend himself.

12:22:01PM

13 THE WITNESS: I'd like to correct your  
14 pronunciation of my name. It's Thomas Michael  
15 Battaglia, a silent "G."

12:22:16PM

16 MR. SHERMAN: I apologize.

17 THE WITNESS: That's not a problem.

18 MS. RABBANI: Counsel, your objections are  
19 noted. I understand that you're objecting to the  
20 fact that we're doing the deposition today. You're  
21 objecting to the time limit. We will respond to  
22 those separately.

12:22:25PM

23 Going forward, can we just stipulate no  
24 speaking objections. We'll do quick objections to  
25 form.

12:22:35PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MR. SHERMAN: Don't you believe that I  
2 should have put my objection in the --

3 MS. RABBANI: I do.

4 MR. SHERMAN: Well, I don't think they were  
5 speaking objections.

12:22:41PM

6 MS. RABBANI: Going forward.

7 MR. SHERMAN: They explain the situation. I  
8 will certainly try to limit my objections as much as  
9 possible.

10 MS. RABBANI: Okay. Much appreciated.

12:22:50PM

11 BY MS. RABBANI:

12 Q. Okay. Mr. Battaglia, I'm going to -- as I  
13 was saying, I'm going to ask you questions today  
14 about your relationship with Jimmy Dawood.

15 A. Yes.

12:22:57PM

16 Q. Do you know Jimmy Dawood?

17 A. Yes.

18 Q. And do you see him here today in the room  
19 with us?

20 A. Hard to see him at all.

12:23:03PM

21 Q. But you recognize him here?

22 A. I recognize him here.

23 Q. Okay. And do you have any trouble  
24 remembering your relationship with Jimmy Dawood?

25 A. Not at all. Absolutely not.

12:23:17PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Okay. Did you have a brother named  
2 Jack Battaglia?

3 A. Yes, I did.

4 Q. Can you describe your relationship with  
5 Jack?

12:23:26PM

6 A. Very close. Wonderful brother. He spoke  
7 seven languages fluently. He was also a concert  
8 pianist. A bit of an intellectual wiz, extremely  
9 intelligent. And we were very very close. As  
10 brothers. Only brothers that we had in the family.  
11 Just he and I.

12:23:46PM

12 Q. And did Jack pass away a few years ago?

13 A. Yes.

14 Q. And when was that? Do you remember?

15 A. It was July the 13th of 2019.

12:23:57PM

16 Q. And when Jack died, did he leave you  
17 anything in his estate?

18 A. He left me virtually everything.

19 Q. And can you -- was there money? Like, just  
20 cash in an account?

12:24:12PM

21 A. There was cash that I knew of.

22 Q. And how much money was that?

23 A. Well, approximately -- it was actually one  
24 million and five dollars. From Cetera. That was the  
25 Putnam fund. And Los Angeles.

12:24:31PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1           **Q.    And did he leave you any properties?**

2           A.    Yes.   His home, 2416 Calle Aquamarina, in  
3   San Clemente.   And two properties in Honolulu,  
4   Hawaii, at the Luana and is known as 2416.   Kalakaua.  
5   Kalakaua Avenue in Honolulu.   And the units in  
6   question were unit 906 and unit 1103.

12:25:09PM

7           **Q.    And were those Hawaii properties, were those**  
8   **condominiums?**

9           A.    They were called condominium suites.   They  
10   were suites, not condominiums.

12:25:29PM

11          **Q.    Okay.   And were those bringing in rental**  
12   **income?**

13          A.    Absolutely.   A significant number of dollars  
14   coming in every month because they were totally  
15   rented all the time.

12:25:42PM

16          **Q.    The house that you mentioned on Aquamarina,**  
17   **is that where your brother lived?**

18          A.    That's correct.   That was his home.  
19   Principle home.

20          **Q.    And after your brother died and you**  
21   **inherited this money and these properties what did**  
22   **you want to do with the estate?**

12:25:52PM

23          A.    Basically to promote goodwill, to donate  
24   certain amounts to friends and relatives and  
25   charitable funds as well.

12:26:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MR. SHERMAN: I'm sorry. I didn't hear  
2 that.

3 THE WITNESS: Friends and relatives and  
4 charitable funds.

5 MS. RABBANI: Charitable funds.

12:26:26PM

6 THE WITNESS: Charitable. Sorry about that.

7 MR. SHERMAN: I'm sorry.

8 BY MS. RABBANI:

9 Q. Did you want to sell the Aquamarina house?

10 A. Yes.

12:26:37PM

11 Q. And did you want to keep renting out the two  
12 properties in Hawaii?

13 A. Absolutely.

14 Q. How did you meet Jimmy Dawood?

15 A. Well, I was referred to Jim Dawood from a  
16 friend of a friend of my brother's actually. And he  
17 referred him as an individual who could help me sell  
18 the property, repair it, fix it up, and do whatever's  
19 necessary for the sale of the property.

12:26:47PM

20 And basically I didn't investigate his  
21 background or anything. But I took it as fair value.  
22 It was an honest representation straightforward to me  
23 by a friend of a friend of my brother's. Normally  
24 with my background in human resources of  
25 approximately 50 years I would check anyone referred

12:27:14PM

12:27:39PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 to me, but I didn't because it came through this  
2 distant friend. So that being the case, he was  
3 introduced to me, and basically he said I can help  
4 you because --

5 MR. SHERMAN: This point I would object as a  
6 narrative, and I would ask the Government ask the  
7 next question --

8 MS. RABBANI: I'll ask another question.

9 MR. SHERMAN: -- rather than just continue  
10 with the narrative.

11 BY MS. RABBANI:

12 Q. When you say you wanted to get help  
13 repairing and fixing up and selling the property, you  
14 mean the Aquamarina house; is that correct?

15 A. That's correct. His domicile.

16 Q. And when you met Jimmy Dawood, was this  
17 shortly after your brother died?

18 A. Yes.

19 Q. So it was in that summer of 2019?

20 A. Yes. Within weeks. And also I was in the  
21 hospital with the small operation of a stent being  
22 put in my body. A stent. You know what a stent is?

23 Q. In the heart?

24 A. It was by the heart.

25 Q. Okay.

12:28:06PM

12:28:18PM

12:28:27PM

12:28:38PM

12:28:58PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1           A.     Yeah. So I had that done. And then  
2 subsequently he passed away on the 13th of the year  
3 2019.

4           MR. SHERMAN: Excuse me. I misunderstood.  
5 Did you say you had the stent or your brother had the  
6 stent?

12:29:16PM

7           THE WITNESS: I had the stent.

8           MR. SHERMAN: I'm sorry. Okay. Thank you.  
9 BY MS. RABBANI:

10          **Q. And how did Jimmy Dawood introduce himself**  
11 **to you?**

12:29:22PM

12          A. As someone who could, quote, unquote, help  
13 restore my brother's property to full salable  
14 condition. And --

15          **Q. Go ahead.**

12:29:40PM

16          A. -- and that the proceeds would be given to  
17 me upon the sale of said property.

18          **Q. Did you agree that he would take any kind of**  
19 **fee?**

20          A. No. We didn't agree on any fee.

12:29:57PM

21          **Q. Okay. Did you discuss whether he'd be paid**  
22 **some portion of the proceeds of the sale?**

23          A. No.

24          **Q. Did you talk about any payment for**  
25 **Mr. Dawood at all?**

12:30:10PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I don't recall that.

2 Q. Okay. So did you agree that he would help  
3 you manage that Aquamarina property?

4 A. Manage in what sense?

5 Q. Get it ready for sale and then sell it.

12:30:24PM

6 A. If that's the indication you have, that  
7 would be correct.

8 Q. Did he tell you that he would take care of  
9 the mortgage payments for the Aquamarina house?

10 A. Absolutely yes.

12:30:36PM

11 Q. And did he tell you he would take care of  
12 the homeowner's association fees?

13 A. Yes. And taxes.

14 Q. Okay. And taxes.

15 A. And any income rents that occurred.

12:30:47PM

16 Q. And he told you he'd paid any other bills  
17 with the Aquamarina house?

18 A. Yes. We discussed that at length and he  
19 indicated that he would pay and he would have his  
20 wife pay these subsequent fees that were due on said  
21 property.

12:31:02PM

22 Q. Did you and Mr. Dawood ever put this  
23 agreement you had between you in writing?

24 A. I asked for it. I never got it.

25 Q. You asked him to put it in writing?

12:31:19PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Several times.

2 **Q. What he was going to do for you?**

3 A. And I never had any contract, never any  
4 inkling of his involvement in selling the property,  
5 repairing the property, doing anything to enhance the  
6 sale of my brother's home.

12:31:36PM

7 **Q. So at the outset, your understanding was**  
8 **that he was going to make repairs to the Aquamarina**  
9 **house, get it ready for sale, and sell it. Is that**  
10 **fair?**

12:31:51PM

11 A. That is correct.

12 **Q. And did you have any discussions with him**  
13 **about the cash that you had?**

14 A. No.

15 **Q. Did you have any discussions with him about**  
16 **the Hawaii properties?**

12:31:57PM

17 A. Yes.

18 **Q. And what was that?**

19 A. That was basically he was going to deposit  
20 said properties -- the two properties 906 and 1103 --  
21 into his funds. One was I remember the name  
22 "Global." It was "Global." And if I heard the  
23 second name, I would affirm it of the other property  
24 be put into another fund that he owned.

12:32:06PM

25 **Q. When you say, "Global," does**

12:32:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Global Design Build sound familiar?**

2 A. That probably sounds familiar.

3 **Q. And for the --**

4 A. I can't establish that as being the actual  
5 fact, but it sounds correct.

12:32:43PM

6 **Q. You just remember that "Globe" was in the**  
7 **name?**

8 A. "Global."

9 **Q. "Global." How about Medline Management?**  
10 **Does that sound familiar?**

12:32:51PM

11 A. That may have been expressed maybe once or  
12 twice.

13 **Q. TD Capital?**

14 MR. SHERMAN: Well, I would object that the  
15 Government is leading the witness. So I object to  
16 the form of the question.

12:33:04PM

17 MS. RABBANI: It's like a two-word question.  
18 BY MS. RABBANI:

19 **Q. Does TD Capital sound familiar?**

20 A. Sounds a little familiar.

12:33:13PM

21 **Q. Okay. And when you say he's going to**  
22 **deposit the Hawaii properties, do you mean he was**  
23 **going to take the rental income from the Hawaii**  
24 **properties and put them into his own accounts?**

25 A. No. He never said that. He never said

12:33:27PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 that.

2 Q. Did he say he was going to transfer  
3 ownership of the Hawaii properties to his own  
4 companies?

5 A. He said that -- that's a little fuzzy. A  
6 little fuzzy. Hard to recall that specific.

7 Q. Okay.

8 A. Restate that question.

9 Q. Did he tell you that he was going to  
10 transfer the ownership of those Hawaii properties to  
11 some other entity?

12 A. Temporarily.

13 Q. Okay.

14 A. That's right. He said temporarily. So that  
15 he could put me in the best position regarding the  
16 disposition of those properties going forward.

17 Q. So he told you that he was going to transfer  
18 ownership of the two Hawaii properties to some other  
19 entity to benefit you; is that right?

20 A. Yes. And that, basically, all of that would  
21 be returned to me for my total disposition at  
22 approximately 30 days, is what I recall.

23 Q. So was it your understanding that after some  
24 period, maybe 30 days ownership of the Hawaii  
25 properties, would be transferred back to you?

12:33:37PM

12:33:56PM

12:34:08PM

12:34:28PM

12:34:51PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's correct.

2 Q. How about that Aquamarina house? Did he  
3 ever tell you to transfer ownership of that  
4 Aquamarina house?

5 A. Never.

12:35:01PM

6 Q. Never?

7 A. No never.

8 Q. Okay. For the Hawaii properties, did he  
9 have you sign anything transferring the ownership?

10 A. Never.

12:35:08PM

11 Q. I want to go back to the retirement savings,  
12 which I think you said was about a million?

13 A. Well, let me expand on that. That was from  
14 one fund that my brother owned. And that was through  
15 Putnam fund in Los Angeles. It's the fund known as  
16 Cetera C-E-T-E-R-A. Cetera fund. And at that time  
17 it was held Nahigian, who was the principle of that  
18 fund. He subsequently has passed away and his son  
19 has taken over. Steven Nahigian.

12:35:29PM

20 Q. Okay.

12:35:54PM

21 A. Okay? And my brother and I have known the  
22 Nahigians for many many years. And he's the one that  
23 transferred one million and five dollars into the --  
24 believe it was the Bank of America account.

25 Q. Okay.

12:36:15PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1       A.     Then also Pierre Ngo N-G-O was  
2     Financial Strategies, was another entity that my  
3     brother had a subsequent amount of almost three  
4     quarters of a million dollars into also, and they  
5     sold those funds per his instructions back to  
6     Bank of America.

12:36:39PM

7       **Q.     Okay.**

8       A.     And Caltech Federal Credit Union did also.  
9     We were members of Caltech. Caltech Federal Credit  
10    Union.

12:37:06PM

11      **Q.     So when we're talking about the cash that**  
12    **was in Jack's estate, it's somewhere around 1.2, 1.3**  
13    **million?**

14      A.     Much more than that. Much much more.

15      **Q.     Did you have a sense of how much?**

12:37:20PM

16      A.     Well, it was 75,000 that he asked me to  
17    transfer from Union Bank. He asked for the  
18    property's contents to be given to a fellow by the  
19    name of Roger Bark -- "Bark-say-jyan," I believe, is  
20    how you pronounce it. "Barksedarian" or  
21    "Bark-say-jyan." So he came in with a couple of  
22    trucks and virtually emptied out the contents of the  
23    house, the office, the -- everything in the kitchen,  
24    the etageres, all of the furniture, and cash money as  
25    well.

12:37:47PM

12:38:20PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. When you're talking about things being  
2 removed from the house, is that Jack's Aquamarina  
3 house?

4 A. That's correct.

5 Q. And who removed all the stuff from the --  
6 inside the house?

12:38:26PM

7 A. His name is Roger Bardakjian or some call it  
8 "Barksedarian." But I call it "Bark-say-jyan."  
9 Roger Bardakjian.

10 Q. And did you ask him to do that?

12:38:41PM

11 A. Absolutely not. Never.

12 Q. Do you know who had him -- did you have any  
13 understanding --

14 A. I had assumed it was Jim Dawood.

15 Q. Did you ever see any proceeds from the  
16 things that were taken?

12:38:52PM

17 A. Absolutely nothing. Zero.

18 MR. SHERMAN: By the way, just for the  
19 record, I assume obviously I'll object on hearsay  
20 grounds. We're preserving those objections. But  
21 this is the first time I want to make that objection  
22 so in the future I won't have to interrupt. And  
23 anything based upon hearsay may be agreed that I do  
24 not have to object at that moment on the grounds of  
25 hearsay, but I'm preserving that --

12:39:02PM

12:39:17PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MS. RABBANI: Yes.

2 MR. SHERMAN: Thank you.

3 BY MS. RABBANI:

4 Q. Do you remember when the things were taken  
5 out of the house?

12:39:23PM

6 A. Well, it was subsequent dates.

7 Q. Okay.

8 A. Week after week after week after week.

9 Q. Did it start after you met Mr. Dawood?

10 A. Oh yes.

12:39:31PM

11 Q. And did Mr. Dawood have access to that  
12 house?

13 A. Yes.

14 (Whereupon there was a brief  
15 cellphone interruption in the  
16 proceedings.)

12:39:35PM

17 MR. SHERMAN: Excuse me. If you need to  
18 answer it, we can go off the record.

19 MS. RABBANI: I think it's gone.

20 MR. SHERMAN: I have the same problem.

12:40:05PM

21 THE WITNESS: Now it's off. Sorry about  
22 that.

23 BY MS. RABBANI:

24 Q. All right. Going back to the cash, did  
25 Jimmy Dawood tell you that you should put that money

12:40:14PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 in a trust account?

2 A. Not specifically a trust account, but a  
3 special fund or funds, plural, depending upon  
4 whichever properties were involved. They would be  
5 put into a special holding account to be held in  
6 trust for me, and at some future date all of this  
7 would be come back -- would come back to me.

12:40:35PM

8 Q. Did he go with you to open a bank account?

9 A. Yes.

10 Q. And where did you go?

12:40:55PM

11 A. In San Clemente, the Pico branch of  
12 Bank of America.

13 Q. And you two went together to a  
14 Bank of America branch?

15 A. Uh-huh. That's correct.

12:41:09PM

16 Q. And you opened an account?

17 A. Yes.

18 Q. Okay.

19 A. He was sitting right next to me, and I  
20 claimed, "Am I the only recipient of basically  
21 accessing this money?" And he said absolutely. He  
22 said I can't touch a penny of it.

12:41:17PM

23 Q. And how much money went in --

24 A. That was not true.

25 Q. How much money went into that account? Just

12:41:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 roughly. Do you remember? Was it over a million?

2 A. Much more.

3 Q. Okay.

4 A. Because it came in from three funds.

5 Q. And did you start transferring the rental  
6 income from Honolulu into that account?

12:41:45PM

7 A. No. Because he alleged that he had control  
8 of the property's evaluation going into his holding  
9 companies, Global and those other two that you  
10 mentioned.

12:42:09PM

11 Q. Did Mr. Dawood tell you that you would need  
12 to put extra money into that account to cover some of  
13 the repairs?

14 A. No. Never.

15 Q. Okay. When you were there at the  
16 Bank of America branch, did the bank give you  
17 information on how to access the account?

12:42:18PM

18 A. General information that it was going to be  
19 held in trust for me, and basically I understood it  
20 as specifically for me and no one else.

12:42:45PM

21 Q. Did you ever learn how to log onto the bank  
22 account online?

23 A. No.

24 Q. On your phone or computer?

25 A. No, I did not.

12:42:57PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did Mr. Dawood know how to do that?

2 A. Yes. And I asked him several times to  
3 assist me with that, and that never got -- that never  
4 happened. Never at all.

5 Q. Were you the only authorized signer on that  
6 account?

12:43:11PM

7 A. According to the banker, I was.

8 Q. Okay.

9 A. His name was Kim. I don't know if he's  
10 still there at that branch. I don't know.

12:43:24PM

11 May I have a sip of water. Small cup.  
12 Good. Excellent.

13 Q. Do you want to take a break, Tom, or do you  
14 want to keep going?

15 A. Thank you. Proceed.

12:43:43PM

16 Q. So I think I asked this, but I just want to  
17 make sure: Did you at any time, back in 2019 or  
18 couple of years later, did you ever access that bank  
19 account online?

20 A. No, I never did.

12:44:07PM

21 Q. Okay.

22 A. I didn't know how to. Honestly, I will  
23 admit that I'm not that computer savvy with these --  
24 with these instruments, these phones and computers.  
25 They keep changing and I keep trying to understand

12:44:21PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 them.

2 Q. They do.

3 A. Difficult.

4 Q. So after the account was set up, did  
5 Mr. Dawood start to take money out of the account?

12:44:31PM

6 A. I don't know.

7 Q. You don't know?

8 A. I don't know.

9 Q. Did he --

10 A. He alleged that he couldn't.

12:44:38PM

11 Q. Uh-huh.

12 A. But then subsequently I found that he could  
13 and did from the bankers of Bank of America.

14 Q. Did he tell you that he was spending money  
15 making improvements on Aquamarina house?

12:44:54PM

16 A. Some.

17 Q. Did he tell you specifically what he was  
18 doing?

19 A. That he was going to take funds to repair  
20 the property, and he did say that it was going to be  
21 in excess of a million dollars. I subsequently have  
22 an individual who builds homes who said, "Nonsense."  
23 He went in there and looked at the alleged repairs  
24 and said, "Absolutely nonsense. This is a huge huge  
25 overexaggeration of what was going on in that

12:45:09PM

12:45:33PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 property, the repairs that were being made."

2 Q. Did Mr. Dawood ever show you receipts or  
3 photos of any --

4 A. Never. I asked him. Never. Nothing with  
5 his handwriting on it. No -- nothing in writing. No 12:45:49PM  
6 memo. No nothing. And I asked for it repeatedly, ad  
7 nauseam, over and over and over again. "Oh, I'll get  
8 it to you." "Oh, we'll mail it to you." "Oh, my  
9 computer's down." "Oh, my copier is down." "Oh I  
10 forgot it." "Oh, I'll get it to you." Never 12:46:09PM  
11 happened. That was very frustrating. And it was  
12 kind of the turning point of my belief in his  
13 testimony to me.

14 Q. Did Mr. Dawood ever tell you that he was  
15 taking money out of that account to invest in other 12:46:27PM  
16 projects?

17 A. Never.

18 Q. And did you ever tell Mr. Dawood that you  
19 wanted to invest some of that money?

20 A. Never. 12:46:38PM

21 Q. Did you want to invest that money?

22 A. Never.

23 Q. Did Mr. Dawood ever have you sign checks  
24 that you remember?

25 A. He had me sign some documents, but the -- 12:46:49PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the contents of the documents, what they were for,  
2 were always obliterated, and it was just, "Sign here.  
3 This is here to protect you." He would say over and  
4 over again. "What am I signing this for?" "To  
5 protect you. To save the funds in this account to  
6 protect you, Tom. You must sign this." So I did.

12:47:07PM

7 **Q. Do you remember how many times that**  
8 **happened, that he had you sign documents?**

9 A. Under 12.

10 **Q. And were some of those --**

12:47:27PM

11 A. Maybe 12-13 times.

12 **Q. -- were some of those contracts?**

13 A. They were alleged to be. Just basic  
14 information that he needed to coordinate things on my  
15 behalf, to protect me again. That was always the  
16 center of the objections from him. "I'm here to  
17 protect you." "I'm here to invest this." "Please  
18 sign here. This is what you need to do." So I never  
19 questioned any of this. I assumed that everything  
20 was according to hoil (phonetic), according to the  
21 correct modality of handling business. I don't know.

12:47:45PM

12:48:12PM

22 **Q. Do you remember the bank ever calling you to**  
23 **authorize a wire transfer out of that account?**

24 A. They did call me.

25 **Q. And what happened?**

12:48:30PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1       A.     Lady called me and she said, "Do you realize  
2     that money's being taken from your account? We think  
3     it's fraud." She quoted me. I said, "You do?" She  
4     said, "Yes, we do. Are you taking money?" I said,  
5     "No, I'm not. I haven't taken a penny of any of it." 12:48:50PM  
6     She said, "Well, there's a substantial amount. We  
7     will prove it to you."

8             And she sent a representative who came to my  
9     home, knocked on my door, came into my house, invited  
10    her in, and told me that a significant amount -- 12:49:05PM  
11    several times -- of money, huge amounts of money --  
12    were taken from the account. And then, "We're down  
13    to this. We're down to this. Down to this." I  
14    said, "Oh, my God." I said, "I had no idea."

15       **Q.     You were surprised?** 12:49:28PM

16       A.     Shocked.

17       **Q.     Do you remember when this happened? Would**  
18    **it have been at the end of your relationship with**  
19    **Mr. Dawood?**

20       A.     Toward the end. 12:49:38PM

21       **Q.     Okay. Before this call and the fraud**  
22    **examination, do you remember whether the bank ever**  
23    **called you and said, "Can you sign off on this wire**  
24    **transfer?"**

25       A.     No. 12:49:49PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. You don't remember that?

2 A. No. I don't remember any bank calling me  
3 about anything subsequent to that.

4 Q. I asked before about TD Capital. Did you  
5 ever agree to invest in TD Capital, that you  
6 remember?

12:50:03PM

7 A. No.

8 Q. Did you ever agree to invest money with  
9 TD Capital?

10 A. No.

12:50:11PM

11 Q. Sitting here today, do you have any  
12 understanding of what TD Capital is?

13 A. TD Capital, according to Jim Dawood, was one  
14 of his entities that he had used many times. He  
15 actually showed me his cellphone and he said, "See  
16 these?" Took his cellphone and he scrolled through.  
17 I said, "Well, how many accounts are there?" He  
18 said, "About a hundred." I said, "A hundred?" He  
19 said, "Yeah. I've helped a hundred people with their  
20 estates." I said, "Oh, really?" And then he went to  
21 another screen, and he pulled it up and he said,  
22 "This is -- this is the sum total of my assets:  
23 548 million, with an 'M.' \$548 million."

12:50:29PM

24 Q. He told you he had \$548 million personally?

25 A. That was the exact amount, and he always

12:51:10PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1     drove up in a Rolls-Royce or a Bentley, Mercedes, or  
2     a Land Rover. Fact, I have a picture in the phone of  
3     seven cars that he presumed to own that were from his  
4     stable of vehicles.

5           **Q. Did you go to his house? Is that where you**  
6     **saw them?**

12:51:33PM

7           A. I never been to his house.

8           **Q. Okay. Where did you see the picture of the**  
9     **seven cars?**

10          A. He handed me his phone.

12:51:41PM

11          **Q. I see.**

12          A. It was just on the phone. But I understand  
13     he lives in Burbank, California.

14          **Q. How about Globe Design Build? Sitting here**  
15     **today, do you know what that company is?**

12:51:53PM

16          A. Just what he mentioned it was. And it was a  
17     investment company that he owned.

18          **Q. And did you ever agree to transfer money**  
19     **into Globe Design Build?**

20          A. No, I never did.

12:52:09PM

21          **Q. Did you ever agree to invest in**  
22     **Globe Design Build?**

23          A. No. None of them. None of the alleged  
24     investments were mentioned that you mentioned, the  
25     other two, never never never. Plus Global. Never.

12:52:20PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Have you ever heard of the  
2 Elliott Institute?

3 A. No.

4 Q. And did you ever agree to invest money into  
5 the Elliott Institute?

12:52:33PM

6 A. I have never heard that name --

7 Q. Okay.

8 A. -- before.

9 Q. Are you familiar with Colony Capital?

10 A. No, I am not.

12:52:41PM

11 Q. Did you ever agree to invest money into  
12 Colony Capital?

13 A. Like I said, I have never heard that name.

14 Q. How about Medline Management Corporation?

15 A. What was that?

12:52:55PM

16 Q. Medline M-E-D-L-I-N-E?

17 A. I think I've heard that name once. But no  
18 regard as to what it was other than one of his owned  
19 entities that he had invested in and owned.

20 Q. And did you ever authorize Mr. Dawood to  
21 transfer money into Medline?

12:53:11PM

22 A. No. None. Never.

23 Q. Did you and Mr. Dawood ever talk about the  
24 idea of doing any investments with that money?

25 A. No. No.

12:53:25PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Do you know who a Christine --

2 A. Donations. Donations, but not investments.

3 Q. Charitable donations?

4 A. Yeah. One was an alleged church religious  
5 fund that I believe was in Anaheim. And he said we  
6 can name this the Jack J. Battaglia Charitable Fund.  
7 I said, "You can?" I said that would be great, and I  
8 kind of choked up on that one. That was a unique  
9 approach.

12:53:38PM

10 Q. Did that ever happen to your knowledge?

12:54:01PM

11 A. To the best of my knowledge, that was the  
12 end of the conversation.

13 Q. Okay. Do you know Christine Armani

14 A-R-M-A-N-I?

15 A. I met her once.

12:54:12PM

16 Q. Who is she?

17 A. His -- Jim Dawood's wife. She came to my  
18 home.

19 Q. And why did she come to your home?

20 A. He brought her in, showed her around my home  
21 and yard. They ran in the backyard and kind of  
22 looked around. And that was it.

12:54:23PM

23 Q. Did you ever agree to transfer money to her?

24 A. No. Never.

25 Q. Did -- these questions are going to feel

12:54:40PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 repetitive. Did you ever agree to invest in the  
2 purchase of any property in La Crescenta?

3 A. No.

4 Q. Did you ever agree to invest in the purchase  
5 of any property in Brea?

12:54:52PM

6 A. Never.

7 Q. Did you ever agree to invest in the purchase  
8 of a property in Fontana?

9 A. No.

10 Q. Did you ever discuss with Mr. Dawood  
11 investing any of your money in any property anywhere?

12:55:02PM

12 A. I subsequently found out that my home was  
13 placed in his control. And I was shocked. And I did  
14 call and I had a conversation with him. And I said  
15 what are you doing with my residence, my home, and  
16 your portfolio of assets. And he said, "That's for  
17 your protection." Everything was always for my  
18 protection. He was here to help me. He was going  
19 forward to do the right things for me.

12:55:27PM

20 Q. Did you ever --

12:55:47PM

21 A. Never came to any material gain for me ever.  
22 Never.

23 Q. Did you ever discuss with him investing in  
24 any other properties?

25 A. No.

12:55:58PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Okay. Do you know what Rodeo Smoke Shop is?

2 A. I have no idea.

3 Q. Okay. And did you ever agree that any of  
4 the money in that account could be used to pay off  
5 Mr. Dawood's personal credit card?

12:56:11PM

6 A. Smoke shop?

7 Q. Smoke shop was the last question.

8 A. Is that what you were referring to? And  
9 you're referring to what now?

10 Q. So you don't know what Rodeo Smoke Shop is?

12:56:22PM

11 A. No, I do not.

12 Q. Separately, did you ever agree that the  
13 money in that trust account could be used to pay off  
14 Mr. Dawood's personal credit card?

15 A. No.

12:56:34PM

16 Q. Is it your understanding that the --

17 A. Can I have another sip -- sip of water.

18 Q. Do you want to take a break, Tom?

19 A. No. Unless you do.

20 Q. No. No. I'm good.

12:57:06PM

21 MR. SHERMAN: Just for a moment. What's  
22 your birth date.

23 THE WITNESS: 9-29-41 September. I just had  
24 my birthday from 81 to 82.

25 MR. SHERMAN: So I'm -- you're just now 82.

12:57:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 THE WITNESS: Brand-new 82. September.  
2 September 29, 1941, was my date of birth.

3 MR. SHERMAN: I'm a month older than you.

4 THE WITNESS: Well, congratulations. You  
5 don't look it. Look at all that hair. You look  
6 good.

12:57:38PM

7 MR. SHERMAN: Thank you.

8 THE WITNESS: Yeah. You're not overweight.  
9 You look great.

10 MS. RABBANI: You look good, too, Tom.

12:57:46PM

11 THE WITNESS: Okay. Thank you.

12 BY MS. RABBANI:

13 Q. So is it your understanding that the  
14 Aquamarina property ultimately was sold to some third  
15 property?

12:57:58PM

16 A. Yes. It was sold through my friend,  
17 Frank Martinez, brokerage firm. And Jimmy objected  
18 to that. He said, "You don't have to have another  
19 real estate or brokerage firm. My wife has a real  
20 estate brokerage firm. We can sell it through that."  
21 And I said, "No. I don't want it that way. I want  
22 it to go through Frank Martinez who's been a friend  
23 of our friends' families that my brother had sold  
24 property through and bought property through several  
25 times prior to that.

12:58:14PM

12:58:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. After that property was sold, did you  
2 ever --

3 A. Excuse me. Prior to this.

4 Q. Okay.

5 A. Prior to this.

12:58:39PM

6 Q. Prior to this.

7 A. Yeah.

8 Q. Okay. After that property was sold, did you  
9 ever get any proceeds from the sale of the property?

10 A. Absolutely none. Not a penny.

12:58:50PM

11 Q. Did it go into that Bank of America trust  
12 account?

13 A. I honestly don't know where it went, but I  
14 asked him about it. I asked Jim about it, and he  
15 said, "Oh we'll get that to you." Never happened.  
16 It never happened. Not a penny. And it was a  
17 substantial amount.

12:59:03PM

18 Q. Did you ever get the Hawaii properties  
19 transferred back to you?

20 A. Never. No.

12:59:16PM

21 Q. And so as far as you understand you have no  
22 ownership interest in those Hawaii properties right  
23 now?

24 A. No ownership in the money, in the  
25 properties, in these home, any other assets -- gone,

12:59:29PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 as if they've vanished in air and just totally gone.  
2 I have no idea.

3 Upon asking him to let me know what -- where  
4 the funds are and all, he said, "Oh it'll be come to  
5 you. It's in route. It's in route." Not a penny of  
6 it ever was or ever has been given back of my  
7 brother's estate, my brother who worked all of his  
8 life very very hard, for every penny he earned.

9 Like I say, he spoke seven languages  
10 fluently. He's a concert pianist. He's a brilliant  
11 guy, but he made some good sound investments and  
12 properties that got him to where he was, to be able  
13 to gain these other properties that I mentioned in  
14 Hawaii and to gain the funding where he was when he  
15 passed away.

16 **Q. Have you ever -- do you know what a remotely**  
17 **created check is?**

18 A. A what?

19 **Q. A remotely created check? Sometimes it's**  
20 **called an RCC.**

21 A. I've never heard of that.

22 **Q. Did you ever authorize an automatic check to**  
23 **be sent out of that trust account every month?**

24 A. I don't know to which you're referring to.

25 **Q. So I'm trying to think of the best way to**

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 explain this. Did you ever agree that the trust  
2 account would send an automatic check every month to  
3 Medline Management?

4 A. No, I never agreed to it.

5 Q. Were you aware that the trust account was  
6 sending automatic checks every month to MMC?

7 A. No. No. His personal transactions were  
8 kept solely to his knowledge, not mine. You know, I  
9 vaguely heard of the name of these entities and, like  
10 I say, I can't account for a penny of their  
11 acquisition, disposal, any movement of them or  
12 anything because it was just a vague referral to what  
13 they were.

14 Q. Did you ever agree to pay rent for the  
15 Aquamarina property?

16 A. No. Oh no.

17 Q. Okay. Do you know the name Walter Lima  
18 L-I-M-A?

19 A. No, I do not.

20 Q. Did you ever agree to lend money to  
21 Walter Lima?

22 A. I don't know that name.

23 Q. Okay. How about Fares F-A-R-E-S Abbasi  
24 A-B-B-A-S-I?

25 A. I don't know that name either.

01:01:29PM

01:01:50PM

01:02:12PM

01:02:30PM

01:02:42PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did you ever agree to lend money to  
2 Fares Abbasi?

3 A. I never heard those names.

4 Q. You mentioned before that at some point  
5 Bank of America started a fraud investigation. When  
6 that started, do you remember about how much money  
7 was left in the trust account?

01:03:08PM

8 A. It was a sizable amount, and I want to say  
9 in excess of a million.

10 Q. Do you remember?

01:03:24PM

11 A. Probably a million and half.

12 Q. That's how much it started with?

13 A. That's what it started with.

14 Q. Do you remember how much was left when  
15 Bank of America started that fraud investigation?

01:03:32PM

16 A. Zero. I heard that -- that's what alerted  
17 me. They came to me that it had been zeroed out.  
18 There wasn't a penny in it and I was shocked. I  
19 could not believe that.

20 I said, "What?" I got to Jim Dawood, and he  
21 said, "Oh, we've transferred that into my holding  
22 companies to protect you from --" I said, "Protect me  
23 from what?" He said, "To protect you." I said, "But  
24 from what? What are you talking about? We haven't  
25 done anything wrong here, have we?" And he said,

01:03:49PM

01:04:13PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 "Oh, no."

2 But he said I have to put these into holding  
3 companies for a short period of time. He said  
4 probably 30 to 60 days maximum. I said, "This is  
5 news to me." I said, "I didn't agree to this."

01:04:31PM

6 Q. Did you ever get any of that money back?

7 A. Not a penny.

8 Q. Okay. Did you ever get a call from  
9 Chase Bank telling you that mortgage payments on the  
10 Aquamarina property were late?

01:04:46PM

11 A. Yes, I did.

12 Q. Was it your understanding that Mr. Dawood  
13 had just not been making those mortgage payments?

14 A. Yeah. And I'd call him and I'd tell him not  
15 only on that but, you know, on the taxes and other  
16 entities that payments were due. So I would call and  
17 be the intermediary to refer it to him to pay these  
18 things. And he said he would. And subsequently, to  
19 the best of my knowledge, they were paid, but they  
20 were late and they incurred some late fees as well.

01:05:00PM

21 Q. During this time were you getting paper  
22 statements from Bank of America to your house?

23 A. No. None.

24 Q. Nothing came in the mail?

25 A. Nothing came in the mail ever.

01:05:35PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did you ever -- after this fraud  
2 investigation started, did you go to the bank?

3 A. I did go to the bank.

4 Q. Okay. And when you went there, did you  
5 change the online login from the account? Do you  
6 remember?

7 A. No.

8 Q. Okay.

9 A. Well, there was nothing there to change. It  
10 had been siphoned off by, I assume, Mr. Dawood.

11 Q. Okay. We're going to take a short break,  
12 Tom, and then come back.

13 MS. RABBANI: Can we go off the record.

14 THE VIDEOGRAPHER: We're off the record.  
15 The time is 1:06 P.M., Pacific Time.

16 (Whereupon a recess was taken.)

17 THE VIDEOGRAPHER: We're back on the record.  
18 The time is 1:21 P.M., Pacific Time.

19 BY MS. RABBANI:

20 Q. When you met Mr. Dawood, do you remember  
21 anything else he told you about his credentials?

22 A. Well, he told me that he was a medical  
23 doctor. And that his brother was a medical doctor.  
24 Told me he was an attorney at one point and a  
25 financial business consultant.

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Mr. Dawood told you that he himself was a  
2 doctor, lawyer, and business consultant?

3 A. Yes.

4 Q. Okay. And he told you that his brother was  
5 a doctor or lawyer?

01:21:57PM

6 A. Lawyer.

7 Q. Okay. Did you ever meet Mr. Dawood's  
8 brother?

9 A. Yes.

10 Q. What was his name? Do you remember?

01:22:04PM

11 A. Nathan.

12 Q. And why did you meet Nathan?

13 A. Basically to go there to rewrite the will  
14 and trust of my brother.

15 Q. And did you have Mr. Nathan Dawood rewrite  
16 the will and trust?

01:22:24PM

17 A. Yes.

18 Q. Do you remember what he did?

19 A. He made a few changes and charged me  
20 something like 8- or \$9,000 for it.

01:22:37PM

21 Q. Did you pay him for that?

22 A. It came out of the Jim Dawood fund and then  
23 also I checked who Mr. Dawood for his contribution.  
24 That was about \$7,500.

25 Q. Did you have Mr. Nathan Dawood work on your

01:23:03PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 own personal will and trust?

2 A. No.

3 Q. Just your brother's?

4 A. Correct.

5 Q. Okay. I'm going to ask you about a series  
6 of transactions. It's going to be a little boring.

01:23:12PM

7 On September 9th of 2019, did you authorize  
8 a wire transfer from that trust account to another  
9 Bank of America account in the amount of \$731  
10 thousand 989 -- sorry -- \$731,989.65?

01:23:39PM

11 A. No. No knowledge of that at all.

12 Q. On September 17, 2019, did you authorize a  
13 wire transfer in the amount of \$654,063.80 out of the  
14 trust account to a separate Bank of America account?

15 A. No. Never.

01:24:12PM

16 Q. Did you authorize on or about November 19,  
17 2019, a \$10,000 online bank transfer from the trust  
18 account to a separate Bank of America account?

19 A. No. Never.

20 Q. On or about November 26, 2019, did you  
21 authorize a wire transfer in the amount of \$25,000  
22 from the trust account to an account for the  
23 Elliott Institute?

01:24:29PM

24 A. I'm wondering if that is the institute that  
25 he agreed to have named -- renamed the Jack J.

01:24:53PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Battaglia fund. I don't know if that is a fact. I'm  
2 assuming, and I shouldn't assume, but I assume it  
3 might be. It might be. I don't know.

4 Q. So if -- you did potentially authorize some  
5 money to be transferred for charitable fund in your  
6 brother's name. Is that what you're saying?

01:25:16PM

7 A. Not specifically.

8 Q. So on or about November 26th, did you  
9 authorize a \$25,000 wire transfer out of the trust  
10 account for any purpose other than charitable?

01:25:36PM

11 A. No. Not -- no. No.

12 Q. Okay.

13 A. That's just a brief assumption of a vague  
14 recollection that I can't substantiate, but I assume.  
15 I'm making an assumption here. Make that very clear.  
16 That's an assumption. It is not fact. It's just  
17 kind of a thought that it could be.

01:25:54PM

18 Q. Okay.

19 A. I don't know for sure.

20 Q. But you didn't authorize a transfer for any  
21 non-charitable purpose?

01:26:07PM

22 A. No, I didn't.

23 Q. Okay. On or about December 6, 2019, did you  
24 authorize an online bank transfer of \$10,000 from the  
25 trust account to a separate Bank of America account?

01:26:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. No.

2 Q. Okay. On or about December 23rd of 2019,  
3 did you authorize an online bank transfer of \$3,000  
4 from the trust account to an account belonging to  
5 Christine Armani?

01:26:46PM

6 A. No.

7 Q. And on or about August 24th of 2019, did you  
8 authorize anyone to access the trust account to  
9 create a check -- a draft check to Medline  
10 Management?

01:27:08PM

11 A. No.

12 Q. Okay. Okay. Those are all my questions for  
13 right now, Mr. Battaglia. We have some time  
14 remaining of our 90 minutes which we'll save to come  
15 back after Mr. Sherman does his cross-examination.

01:27:22PM

16 A. Okay. Thank you.

17 MS. RABBANI: If we can go off the record  
18 for a minute.

19 THE VIDEOGRAPHER: We're off the record.  
20 The time is 1:27 P.M., Pacific Time.

01:27:54PM

21 (Whereupon a recess was taken.)

22 THE VIDEOGRAPHER: We are on the record.  
23 The time is 1:44 P.M., Pacific Time.

24 ///

25 ///

01:44:27PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

EXAMINATION

BY MR. SHERMAN:

Q. Good afternoon, Mr. Battaglia.

A. Good afternoon, sir.

Q. My name is Victor Sherman, and I'm the attorney for Mr. Dawood or "Dah-wood."

01:44:33PM

A. Yes, sir.

Q. I'm going to ask you some questions today. You feeling okay?

A. I'm feeling fine.

01:44:43PM

Q. And this morning before we started, you told the prosecutor that you're doing well, you're recovering from your heart attack and your stroke, you feel some loss of mobility. But otherwise you feel in pretty good condition?

01:44:58PM

A. Yeah. They were minor.

Q. Minor. I'm glad to hear that.

A. They were minor occurrences.

Q. Do you know how much longer you are going to be in the hospital?

01:45:08PM

A. I have no idea.

Q. Have they told you that you are going to be at some point released from the hospital?

A. Yes.

Q. Did they give you any indication when?

01:45:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. No.

2 Q. Did they tell you why they were keeping you  
3 in the hospital now rather than just releasing you?

4 A. Yes.

5 Q. Because?

01:45:24PM

6 A. Because of immobility. Not being able to  
7 perambulate and walk like you do and everyone else.  
8 I need to build up the musculature.

9 Q. So it really has nothing to do with your  
10 heart?

01:45:44PM

11 A. No, I don't believe so.

12 Q. Or any other disease you might have?

13 A. I don't believe so.

14 Q. All to do with your mobility?

15 A. Right.

01:45:50PM

16 Q. So once you have either gained more strength  
17 in your mobility or other arrangements are made or  
18 somebody can assist you in your mobility, you expect  
19 to be released?

20 A. I do.

01:46:02PM

21 Q. So you're not in hospice?

22 A. That's correct.

23 Q. And hospice would mean that there's some  
24 type of thought that you might die within the next  
25 six months to a year?

01:46:12PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I don't anticipate that.

2 Q. So you feel good?

3 A. Don't wish it.

4 Q. Of course not?

5 A. Of course not.

01:46:20PM

6 Q. So there's a trial in this case set for next  
7 year, February or March. But in your present  
8 condition you've -- other than your mobility -- you  
9 feel that you are going to be capable of being a  
10 witness?

01:46:32PM

11 A. I do.

12 Q. Would you give me a little bit about your  
13 educational background?

14 A. Well, basically graduated in 1959,  
15 John Muir High School, Pasadena, California; '61,  
16 Pasadena City College with an AA degree -- with a BA  
17 degree, excuse me, in business.

01:46:45PM

18 Q. You had a business degree?

19 A. Business degree.

20 Q. From what school?

01:47:04PM

21 A. PCC, Pasadena City College.

22 Q. So that's a two-year school?

23 A. That's a advanced school past high school.

24 Q. Then what?

25 A. Then went on to -- I was at the

01:47:16PM



## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Jet Propulsion Laboratory and Caltech, and I was also  
2 pursuing advanced education toward a master's degree  
3 and eventually of a Ph.D. degree.

4 **Q. Did you ever get your master's or Ph.D.?**

5 A. I did not.

01:47:40PM

6 **Q. Did you study for a master's?**

7 A. Yes, I did.

8 **Q. Eventually you got a bachelor's degree**  
9 **however?**

10 A. Yes.

01:47:47PM

11 **Q. From where?**

12 A. From California State University,  
13 Los Angeles.

14 **Q. What year do you remember? Approximately.**

15 A. I want to say 1965 or '66, and the reason  
16 for that was that I was working full time at the  
17 Jet Propulsion Laboratory.

01:48:00PM

18 **Q. What were you doing at JPL?**

19 A. I was -- held several positions and mainly  
20 in employment. I was one of their employment reps,  
21 worked up to employment manager and supervisor.

01:48:28PM

22 **Q. What were your duties as an employment rep?**

23 A. Basically to hire from ground level to  
24 highest academic levels, even CEOs of companies.

25 **Q. So that was a critical position at JPL?**

01:48:54PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I believe it was.

2 Q. How long did you work for JPL?

3 A. About 13 years.

4 Q. And during that period of time were you also  
5 pursuing academic advancement?

01:49:07PM

6 A. Yes. At UCLA, and also I was working at  
7 Caltech.

8 Q. What were you doing at Caltech?

9 A. Employment for them.

10 Q. Same type of job as JPL?

01:49:21PM

11 A. Yes. Employment.

12 Q. So you were working both jobs at the same  
13 time?

14 A. Well, not really. They would phase me in,  
15 phase me out, phase me back in. They requested my  
16 assistance in hiring at whatever specific levels.

01:49:29PM

17 Q. And as your duties for hiring people at both  
18 JPL and --

19 A. Caltech.

20 Q. -- Caltech. I mean, these are obviously  
21 well-known, worldwide, recognized institutions;  
22 correct?

01:49:50PM

23 A. Correct.

24 Q. And you're hiring people that had advanced  
25 degrees?

01:50:01PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Yes.

2 Q. You had to go into their background, I  
3 assume, in making determinations as to whether they  
4 would be an acceptable --

5 A. Yes, I did.

01:50:06PM

6 Q. The reporter had told you before during the  
7 break that you had to let me finish my question  
8 before you answered.

9 A. Oh, okay. I'm sorry.

10 Q. It's all right. Everybody makes that  
11 mistake. And the reason for that is it's very  
12 difficult for him to put down two conversations at  
13 the same time.

01:50:15PM

14 A. I understand.

15 Q. So let me finish my question. Then you'll  
16 answer. I'll wait. Then I'll ask another question.

01:50:25PM

17 A. Perfect.

18 Q. So you had a period of time for both JPL and  
19 Caltech, about a 13-year period?

20 A. More than that, actually.

01:50:41PM

21 Q. And again you were interviewing orally  
22 people that were applying for jobs at both  
23 institutions?

24 A. That's correct.

25 Q. Did you also review their resumes?

01:50:53PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Absolutely.

2 Q. So that required you to read documentation?

3 A. That's correct.

4 Q. And what kind of documentation would you  
5 read?

01:51:02PM

6 A. Their resumes, their history of their  
7 backgrounds, their -- their knowledge, their  
8 educational backgrounds, social backgrounds.  
9 Virtually everything.

10 Q. Would you also look at their transcripts  
11 from school?

01:51:22PM

12 A. Absolutely.

13 Q. And based upon reading all of this  
14 documentation, then you would ask questions?

15 A. That's correct.

01:51:31PM

16 Q. Would you prepare reports for your  
17 supervisors?

18 A. Yes.

19 Q. Did you have more than one supervisor?

20 A. I had many depending upon the department  
21 that I was hiring for.

01:51:38PM

22 Q. Would that require you to prepare a lot of  
23 documentation as to your -- let me finish -- that  
24 require you to prepare a lot of reports that would go  
25 up the chain of command, so to speak, so that people

01:51:54PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 higher than you can make decisions about employment?

2 A. Yeah. But when you say, "a lot of reports,"  
3 it was pretty succinct, pretty direct, and minimal  
4 documentation. Didn't require an awful lot.

5 Q. Okay. But you would have to put together  
6 your impression of the person?

01:52:12PM

7 A. That's correct.

8 Q. Based upon their oral interview and looking  
9 at their records?

10 A. That's correct.

01:52:22PM

11 Q. And then you would try to condense -- let me  
12 finish -- then you would likely condense your  
13 impression into a report that would go to your  
14 superiors?

15 A. That's right. I was trying to prepare  
16 groups of people who could work together socially,  
17 physically, mentally, every other way. I built teams  
18 of people. And chemistry, physics, mathematics,  
19 English -- many different facets that required a team  
20 to be formed and formulated.

01:52:33PM

21 Q. Would you also work with other individuals  
22 at both of these institutions to assist you in making  
23 determinations about employees?

24 A. Yes.

25 Q. So you were a team player?

01:53:17PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I was a team player.

2 Q. And when did your employment stop with both  
3 of these institutions approximately?

4 A. Difficult to put a year on it.

5 Q. I don't need anything specific. Just give  
6 me a general idea.

01:53:40PM

7 A. I don't have -- I don't have a date for you.

8 Q. All right. When's the last time you had  
9 employment?

10 A. Myself?

01:53:59PM

11 Q. Yes.

12 A. Basically I was employed at IT,  
13 International Technology Corporation in Pasadena. We  
14 did environmental cleanups: Air, oil, soil, water,  
15 asbestos, and nuclear cleanups. Large cleanups  
16 around the world. You know, like the Port of Valdez,  
17 the -- just the largest ones. You've heard of  
18 Fluor Corporation. You've heard of Bechtel. Well,  
19 IT Corporation was the third largest environmental  
20 management company in the world. In the world.

01:54:22PM

21 Q. How long did you work for that company?

22 A. For IT?

23 Q. Yes.

24 A. I want to say about 12, 13 years.

25 Q. Okay. Do you know when you retired?

01:55:02PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. 1961.

2 Q. No. Retired from working?

3 A. I was 61 years old.

4 Q. So you're 61 years old?

5 A. I'm sorry. 61 years old.

01:55:19PM

6 Q. So you retired about 20 years ago?

7 A. Exactly.

8 Q. And in the last 20 years, have you done any  
9 outside consulting or work for any company?

10 A. Mainly telephone interviewing and hiring for  
11 the Navy of the United States and several other  
12 entities as well.

01:55:30PM

13 Q. I take it, during your many years of  
14 employment, you had to read contracts?

15 A. Absolutely.

01:55:46PM

16 Q. And in reading the contracts, presumably  
17 your expertise allowed you to understand what the  
18 contract said?

19 A. I would hope so.

20 Q. So would you consider yourself an expert in  
21 reading contracts?

01:55:56PM

22 A. Well, I was promoted to director level --  
23 whatever you wish to put on that as to the level of  
24 expertise -- and I was nominated a couple of times  
25 for vice president as well.

01:56:15PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1       **Q.    What companies were you nominated for vice**  
2 **president?**

3       A.    IT Corporation.   My own firm that I  
4 established.

5       **Q.    Which was what?**

01:56:26PM

6       A.    Thomas Michael, TMB --

7       **Q.    I'm sorry?**

8       A.    -- TMB Associates.   That was my company.

9       **Q.    And what was that company established for?**

10      A.    Largely management firms around the country.

01:56:38PM

11      **Q.    So would you consider yourself pretty**  
12 **sophisticated in the business world?**

13      A.    I don't know what "pretty sophisticated"  
14 interprets to, but certainly a lot of years devoted  
15 to it.   And to some pretty prominent companies.   I  
16 also worked for TRW.   Thompson Ramo Wooldridge.  
17 You've heard of them as well.

01:57:00PM

18      **Q.    Yes.**

19      A.    In Redondo Beach.

20      **Q.    What'd you do for them?**

01:57:15PM

21      A.    Employment.   I was taken from one firm to  
22 another.   Continually promoted to a higher level in  
23 all of these entities.

24      **Q.    What's the highest title you ever obtained**  
25 **for any of these companies?**

01:57:33PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Director.

2 Q. And what company was that?

3 A. That would be IT Corporation.

4 Q. And in your employment over the years, I'm  
5 assuming that you worked for probably 40 years?

01:57:44PM

6 A. I want to say more than that.

7 Q. More than 40 years?

8 A. About 45.

9 Q. Based upon your background, which seems  
10 substantial, you must have dealt with some very other  
11 sophisticated individuals, lawyers, accountants?

01:57:57PM

12 A. Yes.

13 Q. You would deal with lawyers on a regular  
14 basis?

15 A. I hired some lawyers.

01:58:07PM

16 Q. And how would you go about hiring lawyers?

17 A. Attorneys. How would I go about it?

18 Q. What did you do to investigate their  
19 backgrounds?

20 A. Well, that's just exactly what you do. You  
21 investigate their backgrounds and you recruit them  
22 from these other companies that are most desirable to  
23 your needs at your company, and I was pretty well  
24 known doing that.

01:58:17PM

25 Q. So you feel comfortable in dealing with

01:58:41PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 lawyers?

2 A. I do.

3 Q. And in your own life, have you employed  
4 lawyers here and there?

5 A. No.

01:58:50PM

6 Q. Never?

7 A. I can't say never, but I don't recall any.

8 Q. Well, for instance, in preparing a will or  
9 trust documents?

10 A. Vaguely. I don't have a lot of knowledge  
11 there.

01:59:01PM

12 Q. We're going to get to that later on in the  
13 deposition, but in essence you feel comfortable  
14 around well-educated people?

15 A. I do.

01:59:17PM

16 Q. Now, you've indicated that your brother was  
17 very intelligent?

18 A. Extremely.

19 Q. And spoke many languages?

20 A. Yes, he did.

01:59:25PM

21 Q. And both of you were very close?

22 A. Yes, we were.

23 Q. Were you the only siblings?

24 A. Yes.

25 Q. Before your brother died in 2019, were your

01:59:31PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **parents still alive?**

2 A. No.

3 **Q. When did your parents die approximately?**

4 A. Well, my mother preceded my father, and  
5 he -- he died ten years later than my mother. I'm  
6 trying to recall those dates. You may ask me -- I  
7 don't know. I don't recall them.

01:59:51PM

8 **Q. But it was some years before your brother**  
9 **died?**

10 A. Yes. Oh yes.

02:00:05PM

11 **Q. So after your brother -- after your parents**  
12 **died, you and your brother stayed very close?**

13 A. Yes.

14 **Q. Did you live in the same area?**

15 A. Yes. We were very close. About a mile and  
16 a half apart.

02:00:13PM

17 **Q. Would you see each other on a daily basis?**

18 A. Almost.

19 **Q. And talk frequently?**

20 A. Frequently. Probably every day.

02:00:23PM

21 **Q. And would he tell you what his life was**  
22 **about and would you tell him what your life was**  
23 **about?**

24 A. Absolutely.

25 **Q. And you really didn't have any secrets**

02:00:33PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 between the two of you?

2 A. Not that I can recall.

3 Q. So you knew what his life was like?

4 A. Pretty much.

5 Q. Was he married?

02:00:43PM

6 A. No.

7 Q. Did he ever marry?

8 A. No.

9 Q. Did you?

10 A. Yes.

02:00:49PM

11 Q. And is your wife still alive?

12 A. I've lost track. I was married twice.

13 Q. Okay. And when -- let's say in the year of  
14 2019, were you married at that time?

15 A. I believe so.

02:01:09PM

16 Q. Did you live with your wife in 2019?

17 A. No. I'm sorry. We were separated at that  
18 time.

19 Q. Did you ever divorce her?

20 A. Yes.

02:01:20PM

21 Q. Was that after or before your brother died?

22 A. After.

23 Q. Your brother was sick for a period of time  
24 before he died?

25 A. Yes.

02:01:34PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Do you know what he was sick with? What his  
2 problem was?

3 A. Heart problems.

4 Q. Was he in the hospital?

5 A. Yes.

02:01:40PM

6 Q. For some period of time?

7 A. Yes.

8 Q. Was his death expected or unexpected?

9 A. It was -- well, when you have three invasive  
10 procedures from the groin up to your heart to repair  
11 valves in your heart -- four valve chambers -- and  
12 the fourth one got -- got you. The fourth one, he  
13 did not make it. That was the TAVR. Okay? Did not  
14 make that procedure.

02:01:57PM

15 Q. I take it his death was in the end expected  
16 or unexpected when he actually died?

02:02:18PM

17 A. Unexpected.

18 Q. So you were hoping that he would recover?

19 A. Absolutely.

20 Q. So when he died, I assume it was a great  
21 shock to you?

02:02:33PM

22 A. Extremely great.

23 Q. And it was unexpected because, number one,  
24 you thought he was recovering, and two, you were  
25 hoping he would recover and the two of you were very

02:02:46PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 close?

2 A. And the doctors reassured me that that  
3 fourth procedure was going to be beneficial and that  
4 he would survive it. But he did not.

5 Q. Did you and your brother ever go to the same  
6 law firm to prepare trusts?

7 A. Yes.

8 Q. And you remember what year that was?

9 A. Oh, god. I want to say 1989.

10 Q. Do you recall both of you going to a lawyer  
11 in the year 2018?

12 A. I think that was Chamberlain and Viau,  
13 husband and wife attorneys, in Los Angeles. I  
14 believe it was them.

15 Q. All right. So you do have a recollection in  
16 the year 2018 that both of you went and updated or  
17 modified your trusts?

18 A. Yes.

19 Q. Originally you started a trust or created a  
20 trust with some other law firm?

21 A. Yeah.

22 Q. And what year was that approximately?

23 A. That would have been ten years prior --  
24 prior to Chamberlain and Viau.

25 Q. And at the earlier trust, did you and your

02:03:00PM

02:03:15PM

02:03:37PM

02:03:52PM

02:04:04PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 brother go to the same lawyers to create the trust?

2 A. Yes.

3 Q. So you created the trusts more or less at  
4 the same time?

5 A. Yes.

02:04:14PM

6 Q. And then at 2018 you wanted to update your  
7 trust, you and your brother, so the two of you  
8 decided to go to the same lawyers?

9 A. Yeah.

10 Q. And that's, in fact, what you did?

02:04:22PM

11 A. I believe so.

12 Q. And I believe I'm going to show you  
13 documents later, but it appears that you and your  
14 brother both executed, updated, or modified trust  
15 agreement within 60 days of each other. Do you  
16 remember that?

02:04:35PM

17 A. If you say so.

18 Q. Well, I'm going to show you documents and  
19 you can verify that, but that's what I'm saying.

20 A. All right.

02:04:46PM

21 Q. And you both went to the same law firm?

22 A. Yeah.

23 Q. And both of you had your signeurs (phonetic)  
24 notarized by the same notary. Do you remember that?

25 A. I don't remember.

02:04:55PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. We're going to get to that in a  
2 few moments.

3 Now, you say that you met Mr. Dawood within  
4 a few days after your brother died or within a short  
5 period of time, I believe you said? Maybe a couple  
6 of weeks?

02:05:10PM

7 A. Right.

8 Q. Your brother died, I think, on July the  
9 13th?

10 A. Of 2019.

02:05:18PM

11 Q. Correct. Do you remember meeting with  
12 Mr. Dawood within a week of your brother's death?

13 A. I didn't think it was that close. I thought  
14 it was more like two weeks.

15 Q. All right. Let's say two weeks. And the  
16 purpose of meeting with Mr. Dawood was because he had  
17 been referred to by a friend of a friend?

02:05:31PM

18 A. That's correct.

19 Q. And at that time you wanted to deal with  
20 your brother's home?

02:05:42PM

21 A. Yeah.

22 Q. That was the purpose of the meeting, wasn't  
23 it?

24 A. Right.

25 Q. And you met with Mr. Dawood and some other

02:05:48PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 individuals also at the site of your brother's home,  
2 the Aquamarina property?

3 A. That's correct.

4 Q. And that was you and maybe at least three  
5 other people?

02:06:01PM

6 A. Yes.

7 Q. And the purpose of that meeting was to  
8 determine the worth of the property?

9 A. Not the purpose but -- well, one of the --  
10 one of the purposes, but it was mainly to prepare it  
11 for sale. That's my recollection.

02:06:12PM

12 Q. Okay. And the property needed a lot of  
13 work, didn't it?

14 A. No, it didn't.

15 Q. Okay. So you thought it was in fair  
16 condition?

02:06:25PM

17 A. Much better than fair.

18 Q. At that time did you have an idea as to the  
19 approximate worth of the property?

20 A. I knew that properties within the block --  
21 that same block that he lived in -- sold for in  
22 excess of a million dollars.

02:06:36PM

23 Q. Okay so you thought your property was worth  
24 somewhere in that neighborhood?

25 A. I thought his property was worth that.

02:06:49PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. Did you have any actual physical  
2 appraisal shown to you by anybody?

3 A. Not at that point.

4 Q. All right. So when you met with Mr. Dawood,  
5 I believe your testimony was that he would do what  
6 was necessary to assist you in preparing the property  
7 for resale?

02:07:06PM

8 A. That's correct.

9 Q. And included in that was that he would  
10 invest money to update the property or do whatever  
11 was necessary to make it as --

02:07:24PM

12 A. Salable.

13 Q. -- salable as property; correct?

14 A. That's correct.

15 Q. And during that -- was that at the initial  
16 conversation?

02:07:35PM

17 A. One of them.

18 Q. But you had no agreement as to any fee that  
19 he would charge for doing that?

20 A. Well, I assumed he was going to charge me.  
21 He said, "We'll take care of that later," he said.

02:07:50PM

22 Q. I believe you told the prosecutors that he  
23 was going to pay some of the bills, invest money in  
24 the property, pay the taxes, pay the mortgage. Was  
25 that your understanding?

02:08:07PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That was my understanding.

2 Q. So here's a person that you had met very  
3 briefly. He was a stranger; correct?

4 A. Right.

5 Q. And it was your understanding based upon  
6 your initial conversations that he would put up his  
7 own money to make the property more salable?

02:08:17PM

8 A. No.

9 Q. Okay. What did you understand?

10 A. I understood that some of the funds of my  
11 brother's savings would be available to make the  
12 repairs. And it only needed a paint job and some  
13 flooring and about \$600 worth of roofing -- \$660  
14 worth of roofing; I remember talking to that roofing  
15 contractor.

02:08:29PM

16 Q. So you were going to provide the funds to  
17 repair the property?

18 A. Through his funds and some of mine as well.

19 Q. I'm confused. When you talked to the  
20 prosecutor this morning, you indicated that  
21 Mr. Dawood was going to put up the money to repair  
22 the property. You're now saying that's not accurate.  
23 In fact, you were going to put up some of the money?

02:08:59PM

02:09:11PM

24 MR. SHERMAN: Objection. I think that  
25 misstates the prior testimony.

02:09:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 BY MR. SHERMAN:

2 Q. All right. Well, just tell me your best  
3 recollection.

4 A. Best recollection -- a partial amount that I  
5 would provide. No -- no specific amount.

02:09:35PM

6 Q. So no specific amount was ever --

7 A. No. None.

8 Q. Did you understand that you would cost "X"  
9 dollars, for instance, to repair the property?

10 A. I understood, but then, basically, when I  
11 talked to Mac Cablan, the individual that I mentioned  
12 repaired homes and rebuilt homes brand-new, he said,  
13 "This is outlandish. These charges for these  
14 entities to be -- to repair Jack's property are  
15 crazy." He said, "I've maintained this property for  
16 20 years." He said, "And there's no -- there's no  
17 knowledge of his needing this expensive work that has  
18 been claimed."

02:09:49PM

19 Q. All right. So Mr. "Day-wood" or "Dah-wood"  
20 did provide you with a figure that he said would  
21 require the house to go under some kind of renovation  
22 for resale. He did give you a figure. Is that what  
23 you're saying?

02:10:28PM

24 A. Well, that came in several different  
25 iterations. Not all at once.

02:10:43PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Well, at some point did he tell you it's  
2 going to cost "X" dollars to make this house salable?

3 A. Not really.

4 Q. Well, you just said there's a million dollar  
5 figure. Where did that come from?

02:10:55PM

6 A. That was from my brother's money.

7 Q. Mike, you said that you talked to somebody  
8 and you told him that, presumably, someone told  
9 you -- and I assumed you meant Mr. Dawood -- that it  
10 would cost a million dollars to make this property --

02:11:09PM

11 A. That's what he said.

12 Q. Who is "he"?

13 A. Jim Dawood.

14 Q. All right. So now I'm asking when did  
15 Mr. Dawood say it would cost a million dollars --

02:11:20PM

16 A. I don't know when.

17 Q. Well, did it occur in one of the first  
18 meetings?

19 A. No.

20 Q. Did it occur a month later?

02:11:27PM

21 A. No.

22 Q. Well, when did it occur?

23 A. It occurred at various entities along the  
24 way. For instance, the refrigerator was alleged to  
25 be bought for \$6,400 and then --

02:11:41PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Let's just stop there for a moment, if you  
2 might.

3 So a new refrigerator was put into the  
4 premises?

5 A. Right.

02:11:54PM

6 Q. And that you were told it was \$6,400?

7 A. That's correct.

8 Q. Where did that money come from?

9 A. I have no idea.

10 Q. Well, did you pay for it?

02:12:02PM

11 A. I assume I did.

12 Q. Well, did you write a check for it?

13 A. No.

14 Q. Did you expect Mr. Dawood would use his own  
15 money to pay for the refrigerator?

02:12:13PM

16 A. No.

17 Q. So the money had to come from somewhere?

18 A. Right.

19 Q. Did you ask at the time that the  
20 refrigerator was bought --

02:12:22PM

21 A. I did.

22 Q. And what did he tell you?

23 A. And he said, "Correction. It is not  
24 \$6,400." He said there was a dent in it.

25 Q. There was what?

02:12:31PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. There was a dent in the refrigerator, and he  
2 said, "We've got it for something like \$1,400."

3 Q. Okay. So some figure?

4 A. Yeah.

5 Q. Okay. Did you expect he was putting up his  
6 own money?

7 A. No.

8 Q. So you knew that he was somehow getting the  
9 money to pay for the refrigerator; correct? Were  
10 there other appliances --

11 You have to answer yes or no.

12 A. Yes.

13 Q. Okay. And were there other things that were  
14 being bought for the premises?

15 A. Yeah.

16 Q. For instance, it needed new hardwood floors;  
17 correct?

18 You have to answer yes or no.

19 A. Yes.

20 Q. And you had to put in new windows, did you  
21 not?

22 A. I don't recall the windows.

23 Q. Well, do you know that walls were being  
24 knocked down?

25 A. Well, not knocked down, but resurfaced.

02:12:42PM

02:12:56PM

02:13:05PM

02:13:14PM

02:13:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. Where did you think that money  
2 was coming from?

3 A. I was unaware.

4 Q. Well, you knew it was coming from somewhere?

5 A. I didn't question it.

02:13:42PM

6 Q. My only question is --

7 A. I didn't question him.

8 Q. My only question is you knew the money was  
9 coming from somewhere?

10 A. But I didn't question him as to where it was  
11 coming from.

02:13:50PM

12 Q. You never asked?

13 THE WITNESS: Can I have some water.

14 MR. SHERMAN: I'm sorry.

15 THE WITNESS: Thank you.

02:13:58PM

16 MR. SHERMAN: You're welcome.

17 THE WITNESS: Thanks.

18 BY MR. SHERMAN:

19 Q. I'm going to come back to the Aquamarina  
20 property in a few minutes, but I want to turn to the  
21 Hawaii property.

02:14:18PM

22 A. Okay. Two Hawaii properties.

23 Q. Two Hawaii properties.

24 A. 906 and 1103.

25 Q. It is your testimony there was never any

02:14:32PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 written documentation regarding the Hawaii  
2 properties; is that correct?

3 A. That's correct.

4 Q. So you never signed any documents?

5 A. No.

02:14:40PM

6 Q. Never saw any documents?

7 A. No.

8 Q. You never agreed to sell the property?

9 A. No. This was his recommendation.

10 Q. I understand that, but your testimony is you  
11 never signed a single document that had anything to  
12 do with the Hawaii property?

02:14:49PM

13 A. That's correct.

14 Q. Did you ever hire a lawyer in Hawaii to  
15 assist you in selling the property?

02:15:01PM

16 A. No.

17 Q. Do you know if a lawyer in Hawaii ever went  
18 to court to get permission to sell the Hawaii  
19 property to some entity that -- some LLC?

20 A. Well, I talked to the lawyer who I knew, you  
21 know, why that we bought properties from, and he told  
22 me that he was putting the properties up for sale.

02:15:16PM

23 Q. Okay. So you did employ a lawyer in Hawaii?

24 A. I didn't employ him. He referred himself to  
25 me.

02:15:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1           **Q.   Whose lawyer was that?**

2           A.   I don't know.

3                   (Whereupon there was a brief  
4                   cellphone interruption in the  
5                   proceedings.)

02:15:47PM

6           THE WITNESS: Hi. I'm in a meeting. I'll  
7           have to call you back.

8           MR. SHERMAN: It might be helpful if you  
9           turned off the phone.

10          THE WITNESS: Okay. I thought I already  
11          had.

02:16:14PM

12          MR. SHERMAN: You need some help?

13          THE WITNESS: It's not responding.

14          MR. SHERMAN: Here.

15          You want to turn it off.

02:16:49PM

16          MS. SPENCER: Are you comfortable with that?  
17          I'll just turn it on silent.

18          BY MR. SHERMAN:

19               **Q.   All right. So is your testimony that you**  
20               **knew the property in Hawaii was being sold or not?**

02:17:05PM

21               A.   I was -- I was unaware of that.

22               **Q.   Do you know as you sit here today, based**  
23               **upon your knowledge in 2019, that the Hawaii property**  
24               **was sold or not sold?**

25               A.   I don't know. The story changed from this

02:17:26PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 side to that side, from my side to his side, back and  
2 forth, back and forth, no paperwork, no knowledge of  
3 any of this.

4 Q. All right.

5 A. None.

02:17:39PM

6 Q. Now, there is a lawyer that you -- that  
7 somehow discussed with you selling the Hawaii  
8 property; correct?

9 A. No. I dealt with my associate here,  
10 Frank Martinez. And Mr. Dawood objected to that. He  
11 said, "My wife can assist you. We have a legal firm  
12 that we can assist you with."

02:17:53PM

13 Q. Isn't that for the sale of the Aquamarina  
14 property that you're referring to right now?

15 A. I'm referring to the Hawaii properties.

02:18:11PM

16 Q. Okay. So the idea that the Hawaii property  
17 was going to be sold was a discussion between you and  
18 Mr. Dawood?

19 A. No. This was all done unbeknownst to me,  
20 sub rosa. I was not told of these actions.

02:18:30PM

21 Q. Okay. You just said that Mr. Martinez  
22 was -- said that "I can sell the property --"

23 A. Well, this is where it's confusing, because  
24 Jimmy told me that it was this one day, that way the  
25 next day.

02:18:48PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. I'm not asking you -- I'm sorry.

2 I'm not asking you about what Mr. Dawood  
3 said. I'm asking about your conversation with  
4 Mr. Martinez, your friend?

5 A. Right.

02:18:56PM

6 Q. Did your friend, Mr. Martinez, tell you that  
7 he was capable of selling properties for you?

8 A. Yes.

9 Q. Which properties was he referring to?

10 A. My brother's house and the two properties in  
11 Hawaii.

02:19:05PM

12 Q. All right. So Mr. Martinez said, "If you  
13 want to sell the house in the Aquamarina property and  
14 if you want to sell the two properties in Hawaii, I  
15 can do it"?

02:19:21PM

16 A. Yes.

17 Q. So those properties were, in your mind, up  
18 for sale?

19 A. Right.

20 Q. And you're saying that Mr. Dawood  
21 specifically said, "I can sell the properties. Don't  
22 use Mr. Martinez"?

02:19:26PM

23 A. Yes.

24 Q. Would you be surprised if there are  
25 documents that you signed that say exactly the

02:19:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 opposite?

2 A. I would be surprised.

3 Q. And would you be surprised that there are  
4 documents in writing signed by you that specifically  
5 said that Mr. Dawood, through various LLCs, granted  
6 you the permission to pick exactly the person that  
7 you wanted to sell your properties? Would that be  
8 something surprising to you?

02:19:54PM

9 A. Yes, it would.

10 Q. All right. So you're saying that  
11 Mr. Martinez -- by the way, he is not a real estate  
12 agent, is he?

02:20:07PM

13 A. He's a broker.

14 Q. He's a broker?

15 A. In Orange county.

02:20:19PM

16 Q. So how would he assist you in selling  
17 property in Hawaii?

18 A. Well, he told me he could and he did.

19 Q. So he sold the properties in Hawaii for you?  
20 Is that what you're saying?

02:20:32PM

21 You have to say yes or no.

22 A. Yes.

23 Q. And who did he sell the properties to?

24 A. Well, the home was sold to --

25 Q. I'm not asking about the house. I'm asking

02:20:43PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the Hawaii property.

2 A. Oh, the Hawaii property, I don't know. See,  
3 I don't know.

4 Q. Well, you -- you just said --

5 A. There's a lot of confusion here as to who  
6 sold what to whom, because one day it was this way,  
7 then the next day it was that way. One day I owned  
8 it. The next day his firm owned them.

02:20:54PM

9 Q. Did Mr. Martinez sell the homes in Hawaii,  
10 the condos, for you?

02:21:11PM

11 A. He sold the home.

12 Q. I asked you about the condos in Hawaii. Did  
13 he sell them?

14 A. You said the home and condos.

15 Q. I apologize. Did he sell the condos for you  
16 in Hawaii?

02:21:20PM

17 A. I don't believe so.

18 Q. Do you know who sold the condos in Hawaii on  
19 your behalf, if they were sold?

20 A. I don't recall.

02:21:45PM

21 Q. The lawyer that may have assisted in the  
22 sale of the properties in Hawaii, do you know the  
23 name of that lawyer?

24 A. He's a real estate broker.

25 MS. RABBANI: What's the name? Let me see

02:22:07PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the document that shows the name of the lawyer that  
2 went to court.

3 (Whereupon an unidentified  
4 individual entered the room.)

5 THE VIDEOGRAPHER: Can we go off the record.

02:22:21PM

6 UNIDENTIFIED SPEAKER: -- one of you guys  
7 wants to shut it off, you just push a button right on  
8 that right-side panel, unless I can get over there.

9 THE WITNESS: You'll have to come over.

10 UNIDENTIFIED SPEAKER: I have to get there,  
11 unless you want to push the "off" button for me.

02:22:46PM

12 THE VIDEOGRAPHER: We're off the record.  
13 The time is 2:22 P.M., Pacific Time.

14 (Whereupon a recess was taken.)

15 THE VIDEOGRAPHER: We're back on the record.  
16 The time is 2:32 P.M., Pacific Time.

02:32:46PM

17 BY MR. SHERMAN:

18 Q. Okay. Mr. Battaglia, other than the two  
19 condos that were left to you by your brother, have  
20 you ever been involved in sales of property in Hawaii  
21 in the past?

02:33:01PM

22 A. Yes.

23 Q. How many times approximately?

24 A. About three times.

25 Q. You are aware that to sell property in

02:33:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Hawaii, it is necessary that the seller get  
2 permission from the Court to sell the property;  
3 correct?

4 A. No.

5 Q. You're not aware of that?

02:33:23PM

6 A. No.

7 Q. And when you sold property in Hawaii in the  
8 past, did you have to use a lawyer to assist you?

9 A. It's easier if you do.

10 Q. And do you know what the lawyer does that  
11 makes it easier for you to sell the property?

02:33:36PM

12 A. Well, I think they list it. And they  
13 inquire a buyer and negotiate the sale.

14 Q. The lawyer?

15 A. Yeah.

02:33:52PM

16 Q. Doesn't the lawyer also have to go to court?

17 A. I would assume he would.

18 Q. Why do you assume that?

19 A. Because any transaction involving property  
20 requires gaining or losing entity.

02:34:05PM

21 Q. Well, specifically in Hawaii, because of the  
22 nature of that state, isn't it true to your knowledge  
23 that a lawyer is needed to sell property in Hawaii?

24 A. I assume that's true.

25 Q. You do that? You know that?

02:34:27PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I do assume that's true.

2 Q. In this particular case, do you recall  
3 signing documentation to employ a lawyer to assist  
4 you in selling the property in Hawaii?

5 A. I don't require -- I don't recall any  
6 attorney that I obtained.

02:34:38PM

7 Q. Did Mr. Martinez refer you to a lawyer in  
8 Hawaii?

9 A. I don't believe so.

10 Q. Do you know the name of the lawyer by the  
11 name of Mary Ellen Loncke L-O-N-C-K-E?

02:34:49PM

12 A. No.

13 Q. Never heard that name?

14 A. Never heard that name.

15 Q. Did you ever sign any paperwork authorizing  
16 her to sell the property in Hawaii on your behalf?

02:35:01PM

17 A. No. Never.

18 Q. Did you ever sign any purchase agreement  
19 with anybody to sell the property in Hawaii?

20 A. I can't recall.

02:35:18PM

21 Q. When you say you can't recall, this is in  
22 the year 2019, just within ten days or so of your  
23 brother dying. Don't you remember signing a  
24 residential purchase agreement --

25 A. No, I do not.

02:35:34PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. -- let me finish.

2 Don't you recall signing documentation to  
3 sell the two condos in Hawaii?

4 A. No, I do not.

5 Q. So your testimony is you never signed any  
6 documentation?

02:35:43PM

7 A. To the best of my knowledge.

8 Q. How do you sign your initials?

9 A. T-M-B, Thomas Michael Battaglia.

10 Q. I'm going to show you a document that we're  
11 going to mark as Exhibit 1.

02:36:08PM

12 MR. SHERMAN: Exhibit 1 is a -- what is  
13 referred to as an apartment deed for sale of the  
14 apartment at 906 Luana Waikiki executed on  
15 September 17, 2019. That will be Exhibit 1.

02:37:29PM

16 (Defendant's Exhibit 1 was marked  
17 for identification by the court  
18 reporter.)

19 BY MR. SHERMAN:

20 Q. Do you recall -- let me show you this  
21 document. First of all, I'm going to show you page 3  
22 of the document. Do you see that signature?

02:37:41PM

23 A. Yeah.

24 Q. Is that your signature?

25 A. I think so.

02:38:02PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Whereupon the reporter interrupts  
the proceeding.)

THE REPORTER: Can you repeat the last  
statement you made.

BY MR. SHERMAN:

Q. I'm going to approach the witness and ask  
him if that is his signature. Just answer yes or no  
and then we'll go to the next question.

A. It's possible, maybe. I'm not sure.

Q. Okay. The next page, page 4, is signed by a  
notary, also on September 17, 2019. You see that?

A. Yes.

Q. And do you see where the notary says that on  
that day -- and the notary is Mr. Conklin -- a notary  
public in and for said county and state personally  
appeared Thomas Michael Battaglia, successor trustee  
of the Jack L. Battaglia Declaration of Trust dated  
October 29th, 2002 -- by the way, that is the date of  
the original trust of your brother; correct?

A. What date?

Q. October 29, 2002.

A. I don't know that to be true. Also the  
middle initial is incorrect. It is not "Jack L."

Q. Jack J.?

A. Oh, "J." "J" is okay.

02:39:27PM

02:39:49PM

02:40:06PM

02:40:19PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. And it says -- the notary says,  
2 under penalty of perjury, that you appeared before  
3 him on September the 17, 2019, and signed this  
4 document. Do you recall that?

5 A. No, I do not.

02:40:33PM

6 Q. So you're saying that a notary forged a  
7 notary when he said that you personally appeared on  
8 that day?

9 MS. RABBANI: Objection. That misstates his  
10 testimony.

02:40:45PM

11 BY MR. SHERMAN:

12 Q. Well, what is your testimony about this?

13 A. I am not sure because I never went to Hawaii  
14 to sell the properties.

15 Q. This is not Hawaii. This is in Orange  
16 county.

02:40:53PM

17 A. Oh, Orange county.

18 Q. Yes.

19 A. That would be through Frank Martinez, if it  
20 was correct.

02:41:01PM

21 Q. This is a document that says that you went  
22 before a notary to -- in Orange county to sell the  
23 property at 906 Luana Waka -- Waikiki. That is the  
24 unit, isn't it?

25 A. You're confusing things. You're saying

02:41:15PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Waikiki, you're saying that house, now you're saying  
2 Waikiki. Which is it?

3 Q. I'm talking about the condo in Hawaii.

4 A. Well, if it's the condo in Hawaii, I never  
5 went to Hawaii to sell them.

02:41:29PM

6 Q. Okay. I'm not --

7 A. Physically.

8 Q. -- I'm not saying you went to Hawaii  
9 physically. I'm saying that you went to a notary in  
10 Orange county.

02:41:40PM

11 A. That's a convoluted document. That's not  
12 correct. It is incorrect, my friend.

13 Q. Well, what is incorrect about this?

14 A. Because you keep going back from home in  
15 Hawaii -- Honolulu -- home in --

02:41:55PM

16 Q. I'm not talking about the home in Hawaii.

17 A. -- you started out in Orange county. Then  
18 you went to Hawaii. You've confused the issue. Now,  
19 which is it? What are we talking about?

20 THE VIDEOGRAPHER: The camera.

02:42:09PM

21 MS. RABBANI: Could you step back, Victor.

22 BY MR. SHERMAN:

23 Q. We are talking about the property in Hawaii,  
24 unit 906. That is one of the units; correct?

25 A. Okay.

02:42:18PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. And I'm talking about selling that property  
2 in Hawaii in which you had to sign a deed, and rather  
3 than physically going to Hawaii to sign the deed, you  
4 signed the deed in California. Do you remember that?

5 A. No, I do not.

02:42:31PM

6 Q. So you're saying --

7 A. Hawaii would not permit that. I guarantee  
8 you. Hawaii law is different than United States law.  
9 They have a different twist on it. You can go to  
10 Exhibit 21. It's going to be the same. That's not  
11 true. That is not true.

02:42:49PM

12 MR. SHERMAN: I'm going to mark Exhibit 2,  
13 which is a petition and order that was filed in the  
14 land court of the state of Hawaii by an attorney by  
15 the name of Maryanne Ellen Loncke L-O-N-C-K-E, which  
16 is entitled "A Petition of Thomas Michael Battaglia,  
17 Successor Trustee of the Jack J. Battaglia  
18 Declaration of Trust," dated October 29, 2002, for an  
19 amendment of land court certificate of title.

02:43:22PM

20 (Defendant's Exhibit 2 was marked  
21 for identification by the court  
22 reporter and is attached hereto.)

02:43:36PM

23 BY MR. SHERMAN:

24 Q. And the document says, "Comes now petition  
25 of Thomas Michael Battaglia, successor to that

02:43:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 trustee --"

2 A. And I'm supposed to remember 20 years ago?

3 Q. Just a second. No. This is 2019.

4 "-- prays for an amendment of the Land Court  
5 to sell the property in Hawaii?"

02:43:54PM

6 A. That's worse.

7 Q. Let me show you this document.

8 A. I don't know anyone in my area of  
9 intelligence who could remember something over  
10 20 years.

02:44:22PM

11 Q. No. This is not 20 years ago. This is  
12 approximately three years ago -- four years ago.

13 A. But this is incorrect.

14 Q. What's incorrect?

15 A. About my signing it --

02:44:48PM

16 Q. Is that your signature?

17 A. -- in Hawaii.

18 Q. No one is saying you went to Hawaii to sign.  
19 You signed it in California.

20 A. That could be. Now that could be.

02:44:57PM

21 Q. So do you remember that now?

22 A. No, I don't.

23 Q. Is that your signature?

24 A. It may be. I'm not sure.

25 Q. It's notarized.

02:45:06PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Well, it may be.

2 Q. So that --

3 A. I'm not sure.

4 Q. All right. So you're not sure whether or  
5 not you went to -- in front of a notary and signed  
6 that document? Is that your testimony?

02:45:15PM

7 A. I'm not sure that that is a correct  
8 document.

9 Q. Well --

10 A. Period. That's all I can say.

02:45:28PM

11 Q. Do you see where a judge in Hawaii, based  
12 upon this petition, signed a document on September  
13 the 30, 2019, giving the lawyer permission to sell  
14 the property?

15 A. Where is the judge's signature? Bess Palma?

02:45:48PM

16 Q. Yes.

17 A. There's no signature here. There's a stamp.

18 Q. A stamp.

19 A. But you said signature.

20 Q. I believe --

02:46:01PM

21 A. Ask Bess if she can recognize her stamp.  
22 You know, that's just a plain old property stamp.  
23 You can mail it from one to the next --

24 Q. Okay.

25 A. -- and do it.

02:46:14PM



## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. So you're saying -- it says on September  
2 the 30, 2019, Judge Bess K. Palmer or -- excuse me --  
3 the register for Hawaii -- judge for the -- of the  
4 land court signed this document on September the 30,  
5 2019, and there's a stamp. Do you see that?

02:46:32PM

6 A. I see what you're saying.

7 Q. Do you have any doubt that that's authentic?

8 A. I have no doubt because I have no knowledge  
9 of it. How would I know that?

10 Q. Well, you employed a lawyer to go to court  
11 for you.

02:46:46PM

12 A. No, I didn't. Mr. Dawood did. I did not.  
13 He told me that he was taking these properties under  
14 his LLCs. Goldman and those other two that you guys  
15 mentioned. Those were under his wing. You know, he  
16 went back and forth, back and forth, so I never knew  
17 that that was the case.

02:47:04PM

18 Q. All right. Do you recall actually signing a  
19 purchase agreement between you and Mr. Battaglia --  
20 between you and Mr. Dawood giving him authority to  
21 sell the property?

02:47:23PM

22 A. No, I don't recall that. Funny how these  
23 things appear and disappear.

24 Q. Okay.

25 MR. SHERMAN: I'm going to mark as Exhibit 3

02:47:49PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 something called "Hawaii Residential Purchase  
2 Agreement," dated July 23, 2019, between United  
3 Properties, a whiling (phonetic) corporation with a  
4 mailing address of Post Office Box 4192, city of  
5 Glendale, California, who agrees to buy from the Jack  
6 J. Battaglia trust a condominium in Hawaii, unit 906.

02:48:10PM

7 (Defendant's Exhibit 3 was marked  
8 for identification by the court  
9 reporter and is attached hereto.)

10 BY MR. SHERMAN:

02:48:20PM

11 Q. And I'm going to show you page 8 of that  
12 document and ask you if that appears to be your  
13 signature?

14 A. It is definitely not my signature.

15 Q. That's not your signature?

02:48:42PM

16 A. That I can tell it isn't. I don't sign my  
17 signature all scrunched up like that. I simply  
18 don't. That's a copy.

19 Q. Do you remember signing a document --

20 A. That's incorrect. That's not my signature.  
21 Guaranteed.

02:48:59PM

22 Q. So you never signed -- you never entered in  
23 an agreement with Mr. Dawood to sell the property in  
24 Hawaii pursuant to this agreement. Is that your  
25 testimony?

02:49:11PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's my testimony.

2 Q. And your testimony is that a notary in  
3 Orange county, which notarized your signature to sell  
4 that property, is also false?

5 MS. RABBANI: Objection. Misstates his  
6 testimony.

02:49:23PM

7 BY MR. SHERMAN:

8 Q. Is that your testimony?

9 A. I don't know.

10 Q. And you're saying that the lawyer that I  
11 mentioned who went to court in Hawaii on your behalf  
12 as the trustee for the Jack J. Battaglia Trust, that  
13 also wasn't with your permission? Is that what  
14 you're saying?

02:49:28PM

15 A. That's what I'm saying.

02:49:43PM

16 Q. Do you recall getting paid money for selling  
17 this property?

18 A. I do not.

19 Q. So there are escrow documents?

20 A. I assume that they were still under his --  
21 Jim's -- ownership.

02:49:59PM

22 Q. So you're saying you never got any money for  
23 selling this property to Mr. Dawood?

24 A. That's correct.

25 Q. That's correct?

02:50:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1           A.     Absolutely hundred percent correct for both  
2 properties, 906 and 1103.

3           Q.     I have a disbursement summary regarding this  
4 property in which money was sent to the  
5 Jack J. Battaglia Declaration Trust on -- by a wire  
6 in the sum of a \$179,872.18. Do you recall that?

02:50:31PM

7           A.     No, I do not. And also that is a fraction  
8 of its value. That would be a fraction of its value.

9           Q.     Do you --

10           MR. SHERMAN: Let me have the other  
11 agreement.

02:50:58PM

12           THE WITNESS: It's a fraction of over a  
13 million and a half, isn't it?

14 BY MR. SHERMAN:

15           Q.     I'm sorry?

02:51:12PM

16           A.     I'm asking the question. That's a fraction  
17 of over a million and a half dollars.

18           Q.     We're not talking about Aquamarina. We're  
19 talking about the condos.

20           A.     I know what you are talking about.

02:51:18PM

21           Q.     What was the square footage of the Hawaii  
22 property?

23           A.     13 -- about 13-, 1400.

24           Q.     Was it less than 500 square feet?

25           A.     Oh, no. No. No. It's a condominium suite.

02:51:34PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Okay. My question is, did you ever receive  
2 a \$179,000 into the trust account from the sale of  
3 this property?

4 A. Never.

5 Q. So I'm showing you --

02:51:50PM

6 MR. SHERMAN: Let's mark it as Exhibit 4.  
7 (Defendant's Exhibit 4 was marked  
8 for identification by the court  
9 reporter and is attached hereto.)

10 BY MR. SHERMAN:

02:51:51PM

11 Q. By the way, there was a loan on this  
12 property?

13 A. May I see it.

14 Q. I will show it to you in a moment.

15 Do you remember that there was a mortgage on  
16 this property?

02:52:06PM

17 A. What unit are you talking about?

18 Q. My question is, was there a mortgage on this  
19 property?

20 A. What property?

02:52:12PM

21 Q. The Hawaii condo, which was --

22 A. Which one? 906 or 1103?

23 Q. Yes. 906.

24 A. 906, we paid off. That was already off the  
25 books. He paid that off. Jack did. 1103 had some

02:52:27PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 small amount due.

2 Q. Okay. I'm going to show you a document  
3 that's been marked Exhibit 4, and I'm going to show  
4 you -- it's a disbursement summary from the sale of  
5 that property. Do you see that?

02:52:46PM

6 A. Yeah. It says here \$179,672.18.

7 Q. And there was a wire sent to your account in  
8 that amount of money for the sale of the property?

9 A. Where does it attach it to me?

10 Q. You see where it says, "Sent to the  
11 Battaglia Trust"? The disbursement? I put it in --  
12 marked it in yellow.

02:53:11PM

13 A. This is not my name on here. I can't find  
14 my name on here. To what do you refer to? Where's  
15 my name on there?

02:53:31PM

16 Q. "Jack J. Battaglia Declaration of Trust  
17 closing proceeds \$179,672.18. Cash to seller."

18 A. I got it.

19 THE VIDEOGRAPHER: Your mic fell. You have  
20 to --

02:53:49PM

21 THE WITNESS: Cash to seller. But it  
22 doesn't have my name on it. There's no name here.  
23 Show me where my name occurs. Do you see it?

24 BY MR. SHERMAN:

25 Q. The trust. That property was held in the

02:54:02PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 name of the trust, wasn't it?

2 A. Yeah. But my name is not on that.

3 Q. I understand your name was not on it because  
4 the property wasn't in your name. It was in the name  
5 of the trust, wasn't it?

02:54:13PM

6 A. Who's the Law Offices of Derrick J. Tomilta,  
7 L.I.? My name is not on here.

8 Q. Who owned the property? You or your trust?

9 A. I don't know. You keep asking me. It keeps  
10 going back and forth from his entities --

02:54:37PM

11 Q. Forget about --

12 A. I don't know. You're asking -- I have no  
13 knowledge of any of these transactions. I don't  
14 know.

15 Q. Okay.

02:54:48PM

16 A. Because I did not participate in them.  
17 Never. Never. You said my name is on in document.

18 Q. I didn't say your name is on the document.

19 A. Yes, you did. You certainly did. Do I have  
20 witnesses? Did he say the name was on here? I've  
21 been scrutinizing, trying to find it. It's not  
22 there. My brother's name is on there.  
23 Jack J. Battaglia --

02:55:04PM

24 Q. Who owned --

25 A. -- declaration of closing proposals. Cash

02:55:17PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 to seller. 179. That would be a huge huge  
2 ridiculous amount of money.

3 Q. Do you recall receiving that money?

4 A. No, I do not.

5 Q. Okay. The property in Hawaii, that  
6 particular condo, was in whose name in July of 2019?

02:55:37PM

7 A. To my knowledge it should have been in my  
8 name. My name.

9 Q. In 2019?

10 A. No. I'm sorry. In 2019, would be in my  
11 brother's name.

02:55:54PM

12 Q. Okay. And at some point did the property in  
13 Hawaii transfer from your brother to your name?

14 A. How do I know? That he died.

15 Q. You said that the property was in your name  
16 at some point: Yes or no? The Hawaii property?

02:56:07PM

17 A. I assume that --

18 Q. You assume what?

19 A. -- that it was.

20 Q. It was what?

02:56:23PM

21 A. In my name.

22 Q. Okay. Why do you assume --

23 A. It would have because basically my brother  
24 agreed to virtually give everything to me on my  
25 properties.

02:56:36PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Mr. Battaglia, you know that's not true.

2 A. What do you mean?

3 Q. You know your brother in 2018 modified his  
4 trust so as not to even give you title to his home,  
5 Aquamarina property. Don't you know that?

02:56:49PM

6 A. That was a joke.

7 Q. A joke by whom?

8 A. Some phony-baloney attorney.

9 Q. It was the same attorney that you went to to  
10 do your trust.

02:57:05PM

11 A. Well, you have all the data.

12 Q. I'm asking your recollection.

13 A. I don't have any recollection to it.

14 Q. So you don't know that your brother modified  
15 the trust in 2018 in which he removed you as the  
16 beneficiary of his home in Calle Aquamarina?

02:57:18PM

17 A. I'm very vague on this.

18 Q. Well, that would have been in the same  
19 two-week period of your entering into this agreement  
20 regarding the sale of the Hawaii property.

02:57:42PM

21 A. Oh, everything was dumped automatically;  
22 right? Is that what you're saying?

23 Q. That's not what I'm saying. What I'm saying  
24 is that in 2018 your brother changed his trust so you  
25 no longer were the beneficiary of the --

02:57:57PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Let's call him back and ask him that  
2 question. I do not know.

3 Q. Well, you have testified on other occasions  
4 that you were aware that your brother modified his  
5 trust removing you as the beneficiary of the sale of  
6 his --

02:58:10PM

7 A. No, I never said that.

8 Q. You never said that?

9 A. I never said that. You just said that. I  
10 never heard that before.

02:58:19PM

11 Q. So this is the first time you've heard that  
12 your brother removed you as the beneficiary of the  
13 sale of the Aquamarina property?

14 A. Yes.

15 Q. You testified within the last two weeks in  
16 the civil deposition that in fact you did know that.

02:58:29PM

17 A. Well, I misstated then.

18 Q. So now, at this moment, today, is the first  
19 time you've ever heard that your brother modified his  
20 trust in 2018 removing you as the beneficiary of the  
21 Aquamarina property? Is that your testimony?

02:58:47PM

22 A. I learned of that after he passed.

23 Q. Well, so you did know that?

24 A. Well, I read it, obviously, in the  
25 documentation after he passed.

02:59:04PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. When did you learn that?

2 A. Subsequent to two thousand -- 2019.

3 Q. Well, didn't you know that in 2018 when the  
4 two of you went to the same lawyer?

5 A. No, I did not.

02:59:32PM

6 Q. So your brother kept that a secret from you?

7 A. That would be the first secret he's ever  
8 kept from me.

9 Q. Do you want us to believe that he kept that  
10 a secret?

02:59:42PM

11 A. I want you to believe whatever is true, and  
12 can you prove that?

13 Is it warm in here?

14 MS. SPENCER: Are you feeling warm?

15 MS. RABBANI: Do you want to take a break  
16 and maybe the nurses can -- I think they can adjust  
17 the temp.

03:00:43PM

18 MR. SHERMAN: I'm going to mark as  
19 Exhibit 5 --

20 MS. SPENCER: Let's take a break.

03:00:54PM

21 MR. SHERMAN: Do you want to take a break?

22 THE WITNESS: Sure.

23 THE VIDEOGRAPHER: We're off the record.

24 The time is 3:00 o'clock Pacific Time.

25 (Whereupon a recess was taken.)

03:11:52PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 THE VIDEOGRAPHER: We're back on the record.  
2 The time is 3:11 P.M., Pacific Time.

3 MR. SHERMAN: We're ready?  
4 BY MR. SHERMAN:

5 Q. We were talking about the Jack J. Battaglia  
6 Declaration of Trust dated originally October 29,  
7 2002, and it was amended on August 13, 2018. And the  
8 law firm you mentioned before, that you also used to  
9 do your trust, was the same law firm that your  
10 brother used. Do you remember that testimony?

03:12:21PM

11 A. I don't remember the testimony, but that  
12 sounds correct --

03:12:43PM

13 Q. All right.

14 A. -- as far as the dates.

15 Q. Okay. Now, originally, your brother, in the  
16 2002 trust, left you the Aquamarina property;  
17 correct?

03:12:52PM

18 A. That's right.

19 Q. Okay. And I'm going to have marked as  
20 Exhibit 6 the declaration of your -- the trust of  
21 your brother that was prepared by the law firm  
22 Chamberlain and Viau.

03:13:05PM

23 A. Chamberlain and Viau.

24 Q. And Viau.

25 A. Her name is Viau.

03:13:15PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. V-I-A-U.

2 A. Chamberlain and Viau.

3 (Defendant's Exhibit 6 was marked  
4 for identification by the court  
5 reporter and is attached hereto.)

03:13:20PM

6 BY MR. SHERMAN:

7 Q. And you were aware, when your brother  
8 executed this trust in 2002, that he left you the  
9 house?

10 A. That's correct.

03:13:27PM

11 Q. And during that, did you -- were you also  
12 aware that, as part of his trust, that he directed  
13 you as the trustee to give certain moneys to other  
14 beneficiaries upon his death?

15 A. Not certain moneys. One thing was his  
16 piano. His Steinway concert grand piano.

03:13:42PM

17 Q. Don't you recall in that trust that he told  
18 you to give upon his death \$50,000 to Nicholas  
19 Stratis S-T-R-A-T-I-S?

20 A. Nicholas Stratis. I don't recall that.

03:14:04PM

21 Q. And Kyle Atherton, \$25,000?

22 A. I don't recall that.

23 Q. And Chris Ruiz, \$25,000?

24 A. Chris who?

25 Q. Ruiz R-U-I-Z.

03:14:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I don't know that person.

2 Q. And Richard, a friend, \$25,000?

3 A. Well, he passed away.

4 Q. And did you ever see your brother's 2002  
5 trust?

03:14:30PM

6 A. I don't think I did.

7 Q. So in all the years between 2002 and 2019,  
8 your brother never showed you?

9 A. No.

10 Q. Well, you were the trustee.

03:14:41PM

11 A. But he agreed with me that, whoever  
12 predecease the other, that we would have a hundred  
13 percent of each other's properties given to each  
14 other.

15 Q. Well, you know he changed that in 2018?

03:14:54PM

16 A. After he died. After subsequent to his  
17 death, yes.

18 Q. When did you learn that?

19 A. Well, I don't know. A few weeks after he  
20 passed away.

03:15:08PM

21 Q. How did you learn that?

22 A. Remember, I was in the hospital and  
23 recuperating from a stent in my chest, and then he  
24 subsequently -- are you listening?

25 Q. Yeah, I'm listening.

03:15:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. He subsequently passed away. It was a very  
2 confusing period.

3 Q. All right.

4 A. Disorienting period.

5 Q. But you did learn?

03:15:31PM

6 A. Soulful period.

7 Q. Even by your testimony you learned shortly  
8 after his death that he had changed his trust  
9 agreement?

10 A. Shocking to me.

03:15:39PM

11 Q. All right. Even though the both of you used  
12 the same lawyers in 2018?

13 A. That's right.

14 Q. So the lawyers never mentioned it to you?

15 A. No.

03:15:48PM

16 Q. And your brother never mentioned it to you?

17 A. No.

18 Q. Did you read the trust agreement in which he  
19 disinherited you from the Aquamarina property?

20 A. No.

03:16:01PM

21 Q. Well, how did you know that he did that?

22 A. I did after he passed away and I read it.

23 Q. So you read the trust?

24 A. After he passed away.

25 Q. Okay. And did you remember -- did you read

03:16:11PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the entire agreement?

2 A. I'm sure I did.

3 Q. And do you remember what the agreement said?

4 A. Oh, yeah. Word for -- word by word.

5 Q. In general?

03:16:21PM

6 A. How can I remember that that far back?

7 Q. Well, we're talking about 2019.

8 A. That's all, huh?

9 Q. You read the trust agreement?

10 A. That's over four years.

03:16:33PM

11 Q. But read the agreement -- you read the  
12 trust?

13 A. I assume I did.

14 Q. All right. And in it, do you recall who he  
15 deeded the property to?

03:16:43PM

16 A. Me.

17 Q. I'm talking about in 2018 when he changed  
18 the trust agreement. Who did he -- in place of  
19 you -- deed or request that the property be  
20 transferred to somebody else and not you?

03:16:59PM

21 A. I'm not clear on that.

22 Q. Well, who's Brandon Lannan L-A-N-N-A-N?

23 A. He was an old friend.

24 Q. And when you read the trust agreement,  
25 didn't you read that, in fact, at the behest of your

03:17:13PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 brother, the residence at 2416 Calle Aquamarina,  
2 San Clemente, California -- a friend of your  
3 brother's -- that if he survived your brother by  
4 30 days, he was to receive the property on  
5 Aquamarina -- Calle Aquamarina -- free of the trust?

03:17:29PM

6 A. No. I don't recall that.

7 Q. You don't recall that?

8 A. I don't recall that.

9 Q. I'm going to show you that exhibit, which  
10 has been marked Exhibit 5, and ask you to read right  
11 there.

03:17:40PM

12 (Defendant's Exhibit 5 was marked  
13 for identification by the court  
14 reporter and is attached hereto.)

15 THE WITNESS: It says what you said.

03:18:00PM

16 BY MR. SHERMAN:

17 Q. Is this the first time that you're aware  
18 that that's what the trust agreement said?

19 A. Yeah.

20 Q. Right this moment?

03:18:08PM

21 A. Yeah.

22 Q. That's page 4 of that trust agreement --  
23 trust paper?

24 A. Yes. There are other names on here, too.

25 Q. I understand, and we're going to get to that

03:18:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 in a moment, but your testimony is, as we sit here  
2 today September the 17, 2023, at 2:15 P.M., this is  
3 the first time you realize that your brother had  
4 disinherited you from receiving Aquamarina property?

5 A. Don't use that word, "disinherit." He would  
6 never disinherit me. Never.

7 Q. All right.

8 A. What a horrible word.

9 Q. What word would you --

10 A. Disinherit is to throw a person down the  
11 drain. Discount them. My brother would never do to  
12 that.

13 Q. What did your brother do in that agreement?  
14 In that trust paper?

15 A. This is all news to me. I don't recall.

16 Q. So in 2019, after you -- you had a copy of  
17 this trust agreement in 2019?

18 A. No, I did not.

19 Q. You just testified a moment ago -- don't  
20 interrupt, please -- you testified just a moment ago  
21 that you discovered this trust agreement within a few  
22 weeks of your brother's death?

23 A. Within a few weeks. Maybe it didn't fall on  
24 this document that you're holding. It doesn't fall  
25 on that date.

03:18:47PM

03:18:56PM

03:19:09PM

03:19:24PM

03:19:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Well, didn't you make a claim today and in  
2 other times, that you believed that somehow  
3 Brandon --

4 A. I'm confused with the dates. I'll be honest  
5 with you. I'm totally confused with the dates.

03:19:54PM

6 Q. Forget about the dates. Didn't you --

7 A. What do you mean, "Forget about the dates?"  
8 Either he's alive or he's dead. Either he told me or  
9 he didn't. Either he wrote about it or he didn't.  
10 And I don't recall any of that. Do you understand  
11 me? I do not recall any of that changing of the will  
12 back to some other entity there.

03:20:06PM

13 Q. Haven't you previously testified, and in a  
14 statement also given to the prosecution, that you  
15 believe --

03:20:23PM

16 A. Well, you tell me I have. You're putting  
17 words in my mouth. I don't know.

18 Q. Let me ask my question. May I please.  
19 Didn't you testify at different times and  
20 also make a statement to the Government that you  
21 believe that somehow Brandon Lannan use some type of  
22 coercion to get your brother to change the trust?

03:20:38PM

23 A. I'm not knowledgeable of that.

24 Q. You have no knowledge of that?

25 A. No knowledge.

03:20:55PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. And you have no knowledge ever making that  
2 statement?

3 A. I have no knowledge ever making that  
4 statement.

5 Q. And you have no knowledge of making that  
6 statement within the last two weeks of your other  
7 deposition?

03:21:00PM

8 A. I have no knowledge of making that  
9 statement.

10 Q. Didn't you --

03:21:06PM

11 A. For the last two weeks of my deposition.

12 Q. Didn't you make the statement within the  
13 last half hour that the trust of your brother, the  
14 amendment in 2019, was some kind of a document?

15 MS. RABBANI: Objection. Misstates his  
16 testimony

03:21:21PM

17 THE WITNESS: That's incorrect.  
18 BY MR. SHERMAN:

19 Q. Well, what did you say?

20 A. He would never make a phony document, and he  
21 would never mislead. He would never take me off the  
22 will at all in any way.

03:21:24PM

23 Q. So you believe that this document is phoney?

24 A. I don't know. I wish I could call him back  
25 and ask him. "These are yours?"

03:21:40PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1           What's the signature on that? Let me see  
2           it.

3           Q. All right. I'm going to approach the  
4           witness and show you page 23 and show you your  
5           brother's signature which was notarized by a notary.

03:21:52PM

6           A. That could be his signature.

7           Q. You see it's notarized?

8           A. Yeah, it's notarized. I don't know. This  
9           is confusing. Very confusing.

10          Q. Well, I understand that you consider this  
11          confusing, but do you have any doubt that your  
12          brother in 2019 --

03:22:22PM

13          A. I have lots of doubts from what you're  
14          saying here.

15          Q. All right. Let me finish the question.

03:22:33PM

16          A. Yeah. Go ahead.

17          Q. Do you have any doubt that your brother  
18          decided not to deed the Aquamarina property to you  
19          but in fact decided to deed it to Mr. Lannan instead?

20          A. I'm unaware of that.

03:22:49PM

21          Q. Well, you just read the document?

22          A. I don't care what the document says. It's  
23          either in my opinion or not.

24          Q. And your opinion is that your brother didn't  
25          do that?

03:23:00PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's my opinion.

2 Q. Even though your brother's signature is  
3 notarized?

4 A. Why he would do that when all of our lives  
5 we promised everything to each other. That's what we  
6 promised, truly everything, with exception to the  
7 piano I told you about and a couple of other minor  
8 things. Oh, the records to my cousin. My  
9 mother's -- not record but -- paintings. My mother's  
10 paintings, and several other nice paintings that he  
11 had to my cousin Drew. And I'm trying to think of  
12 another. There was another one that I recall it was.  
13 It wasn't any of those people.

14 Q. Okay. So when you read the document some  
15 time after your brother's death, what document did  
16 you read?

17 A. Oh you're going -- you're going to hold me  
18 to that?

19 Q. I'm sorry?

20 A. You're going to hold me to that?

21 Q. Well, that's what you said?

22 A. From 2019 now?

23 Q. Yes.

24 A. Four years? I can't recall.

25 Q. What can't you recall?

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. The validity of what you're saying.

2 Q. Well, you're the one that said that you read  
3 your brother's amendment to the 2018 trust some time  
4 within a few weeks of your brother's death. You're  
5 the one that said that.

03:24:23PM

6 MS. RABBANI: Objection.

7 Go ahead.

8 BY MR. SHERMAN:

9 Q. Did you read the document or not?

10 A. I believe I did.

03:24:30PM

11 Q. And do you remember what it said?

12 A. Very honestly? No. I don't recall.

13 Q. So it's difficult for you to remember what  
14 was going on in the year 2019?

15 MS. RABBANI: Objection.

03:24:47PM

16 THE WITNESS: '18.

17 BY MR. SHERMAN:

18 Q. No. 2019. After your brother's death. Was  
19 that a confusing period for you?

20 A. Yeah. I'm in the hospital. I have a stent  
21 put in my heart. And he's passing away. He's not  
22 coming through the fourth surgery on his heart. Do  
23 you think I'm concentrating on goddamn document? How  
24 dare you. How dare you.

03:24:55PM

25 Q. And I take it --

03:25:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. You don't concentrate on crap like that.

2 Q. So the trust agreement that your brother  
3 changed in 2018 (sic) in which he took you off as the  
4 beneficiary of the Aquamarina property, it was too  
5 confusing in 2019 for you to comprehend that? Is  
6 that your testimony?

03:25:29PM

7 A. I'm assuming that you're giving me correct  
8 dates. We don't know. There's only one person that  
9 knows. That's him.

10 Q. How about the lawyers that prepared this  
11 document? They would know.

03:25:41PM

12 A. Oh, they're going to show me the documents  
13 as soon as he died. That doesn't happen that way.

14 THE WITNESS: Am I correct, attorneys?  
15 BY MR. SHERMAN:

03:25:50PM

16 Q. You can't ask them questions?

17 A. No. They don't give you data about your  
18 brother's dying. "This is what's going to happen."  
19 "You better get prepared for it." Sometimes that  
20 happens. Sometimes it doesn't. In this case, it  
21 didn't.

03:26:01PM

22 Q. What didn't happen?

23 A. This knowledge that you're trying to give me  
24 here.

25 Q. So in other words, you can't remember

03:26:11PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 whether your brother, in fact, did this or didn't?  
2 In other words, removed you from obtaining the  
3 Aquamarina property?

4 A. I'm quite as sure he did not.

5 Q. Just as you're as confident that you never  
6 signed documents with Mr. Dawood to sell the  
7 Aquamarina property; is that correct?

8 A. Who's "Dah-wood"?

9 Q. "Day-wood." However you want to call it.

10 A. Oh, "Day-wood." Okay. You mispronounced  
11 his name. I don't know.

12 Q. And you also are confused about the Hawaii  
13 property, aren't you?

14 A. Yeah. Specifically on every date that you  
15 recommend it.

16 Q. Forget about the dates. I'm not talking  
17 about the dates. As far as signing documentation  
18 that you, in fact, sold the Hawaii property, employed  
19 a lawyer to do it, and signed a purchase agreement,  
20 and, in fact, received the proceeds from the sale, is  
21 that all confusing to you now?

22 A. Yeah. I didn't receive any proceeds.

23 Q. Even though we have documentation showing  
24 that the money was wired to your account?

25 A. I think it was wired to Mr. Dawood's

03:26:24PM

03:26:37PM

03:26:55PM

03:27:07PM

03:27:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 accounts. I assume it was wired to Mr. Dawood's  
2 accounts because I was not in receipt of it.

3 Q. Before I get more -- excuse me.

4 Do you recall an interview you had with  
5 FBI Agent Julie Sawyer in October 30th of 2020?

03:28:05PM

6 A. I don't know if that date is correct, but I  
7 did meet with her.

8 Q. And do you remember telling Ms. Sawyer in  
9 2020 that, quote:

10 "I discovered that after Jack passed, that  
11 he apparently talked my brother to change his will  
12 and trust -- I never was informed of this -- to take  
13 Jack's house away. No way. Jack and I always have  
14 promised everything we had owned to be given to each  
15 other when God called us home. I was not informed of  
16 his will and trust over ever. I believe no one was  
17 aware of this."

03:28:20PM

18 Do you remember telling her that?

19 A. Not in total.

20 Q. Well, would you like to see the report?

03:28:50PM

21 MR. SHERMAN: May we have this marked as  
22 next in order.

23 (Defendant's Exhibit 7 was marked  
24 for identification by the court  
25 reporter and is attached hereto.)

03:28:58PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 THE WITNESS: You can fool a person with  
2 dates very easily. Dates are not always the facts.  
3 You know? You're trying to squeeze facts from me  
4 that I cannot recall. No one can recall years and  
5 years ago. Many people can't tell you what they had 03:29:23PM  
6 for breakfast. Isn't that true? You know, you're  
7 holding me to dates and signatures --

8 BY MR. SHERMAN:

9 Q. This --

10 A. -- changes. Monumental changes? 03:29:35PM

11 Q. This statement says that you told  
12 Julie Sawyer in 2020 -- October of 2020 -- that you  
13 discovered, that after Jack passed away, that this  
14 Mr. Lannan apparently talked Jack, your brother, to  
15 change his will and trust, giving him the house? 03:29:59PM

16 A. Oh, no.

17 Q. You never told Julie Sawyer --

18 A. Oh, no. Never. That's a total misquote.

19 Q. So Julie Sawyer, in making your report that  
20 says that -- you never -- you never told her that? 03:30:09PM

21 A. I don't believe so at all.

22 Q. Do you remember writing her an e-mail in  
23 which you said this?

24 A. No.

25 Q. Okay. May I show you a document. 03:30:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Mr. Sherman hands the witness a document.)

BY MR. SHERMAN:

**Q. Is that your e-mail?**

A. I was never informed of this. You take Jack's house away? Exclamation point, no way. Jack and I always have promised everything we had owned to be given to each other when God called us home. I was not informed of his will and trust changeover -- trust changeover ever. I believe no one was aware of these.

**Q. Is that your e-mail address at the top?**

A. Yeah.

MS. RABBANI: Victor, you've got about five minutes left.

BY MR. SHERMAN:

**Q. Now, do you recall sending this e-mail?**

A. No, I don't.

**Q. So this is approximately about three years ago?**

A. Yeah.

**Q. Okay. And so you don't recall this e-mail?**

A. I don't recall.

**Q. And you don't recall telling Agent Sawyer what is included within this e-mail?**

A. No.

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. And your testimony is that in October of  
2 2020, you had no idea that your brother had removed  
3 you as the beneficiary of the Aquamarina --

4 A. That's correct.

5 Q. -- house; is that correct?

03:32:43PM

6 A. That's correct.

7 MR. SHERMAN: Where's the deposition?  
8 Where's that page?

9 THE WITNESS: I wish I could recall these  
10 dates, but I simply can't.

03:33:10PM

11 BY MR. SHERMAN:

12 Q. Do you know somebody named Brandon Lannan?

13 A. Yes.

14 Q. Isn't it a fact that within -- once you  
15 found out that your brother had decided to give the  
16 property to Mr. Landon (sic), that you had a  
17 conversation with him about that fact?

03:33:41PM

18 A. No.

19 Q. Did you ever talk to Mr. Landon (sic) within  
20 a week to ten days after your brother died?

03:33:54PM

21 A. No.

22 Q. Do you recall testifying on October the 5th,  
23 2013 (sic), which is approximately two weeks ago,  
24 that you did talk to Mr. Lannan within ten days after  
25 you discovered that your brother had deeded or given

03:34:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the property to Mr. Lannan? That you had a  
2 conversation with him about it?

3 A. No.

4 Q. Do you remember even mentioning  
5 Brandon Lannan's name at the deposition that you gave  
6 on October the 5th?

03:34:24PM

7 A. No, I do not.

8 Q. That's only twelve days ago. You have no  
9 recollection of that?

10 A. No.

03:34:34PM

11 Q. You were aware, were you not, that in your  
12 brother's trust he decided to give a distribution of  
13 his estate to various other individuals other than  
14 Mr. Lannan and yourself?

15 A. I told you about the piano. I told you  
16 about the paintings. I told you about some other  
17 little miscellaneous stuff --

03:34:58PM

18 Q. How about the fact --

19 A. -- that my other cousin --

20 Q. How about the fact that he decided in his  
21 trust to give 10 percent of the trust estate to his  
22 friend Allen Koziol K-O-Z-I-O-L?

03:35:11PM

23 A. I never knew that.

24 Q. Did you know that he decided to give  
25 5 percent of his trust to his friend Kyle Atherton?

03:35:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. No.

2 Q. Did you know that in his trust he wanted to  
3 give 5 percent to his cousin Drew Battaglia?

4 A. I knew that he wanted to give Drew the  
5 paintings.

03:35:39PM

6 Q. How about 5 percent of the trust?

7 A. No. It was just the paintings of my  
8 mother's and other people.

9 Q. So you never knew --

10 A. Drew liked these.

03:35:48PM

11 Q. All right. To make this simple, he also  
12 decided to give 5 percent of the trust after  
13 distribution to you -- your percentage -- 5 percent  
14 to Nick Stratis, 5 percent to Bob Ryan, 2 percent to  
15 Tina Lee, 2 percent to Dustin Weden W-E-D-E-N,  
16 2 percent to Vivien Nelson, 2 percent to  
17 Vince Crowder and Liz Crowder C-R-O-W-D-E-R, and  
18 2 percent to Matt Dimeo. Did you know any of that?

03:36:07PM

19 A. No, I did not.

20 MS. RABBANI: Also times up. I'll give you  
21 a couple minutes to wrap up, but that is 90.

03:36:27PM

22 BY MR. SHERMAN:

23 Q. Well, as the trustee, didn't you have an  
24 obligation --

25 A. But you don't read those things every five

03:36:37PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 days. Nobody does.

2 Q. As the trustee, you had the obligation to  
3 look at your brother's trust to see what he wanted to  
4 be done upon his death?

5 A. Yeah.

03:36:49PM

6 Q. Didn't you take that seriously?

7 A. Sure.

8 Q. Well, what did you do to decide --

9 A. Well, you're talking about weeks. How many  
10 weeks are you talking about? That I knew this and I  
11 knew that and I knew the other thing.

03:36:56PM

12 Q. At some point didn't you want to look at  
13 your brother's trust document to see what he wanted  
14 to be done upon his death?

15 A. Not that specific.

03:37:15PM

16 Q. Well, didn't you want to go to --

17 A. Because I assumed all my life that  
18 everything was coming here.

19 Q. But you knew that your brother in 2018 had  
20 gone to the lawyers to amend the trust at the same  
21 time that you did?

03:37:25PM

22 A. No. That was verbal. That was verbal. It  
23 wasn't written.

24 Q. Well, you just you said earlier that you and  
25 your brother went to the same lawyers to have new

03:37:36PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 trust documents prepared?

2 A. But there was no mention of any major  
3 changes.

4 Q. Well, didn't you want to go to those trust  
5 attorneys to see what your brother had done?

03:37:51PM

6 A. No. Why would I second guess him? He never  
7 told me a lie ever.

8 Q. Why did you think he went in 2018 to modify  
9 his trust agreement -- trust document?

10 A. I don't think that. You think that. You're  
11 trying to put words in my mouth.

03:38:05PM

12 Q. You know that he went to the lawyers to  
13 change his trust. You testified to that.

14 A. Not specifically.

15 Q. What do you mean, "not specifically"?

03:38:18PM

16 A. Well, I don't know what he did. If I knew,  
17 I could tell you.

18 Q. Okay --

19 A. If he were here, he'd tell you.

20 Q. -- and not knowing what he did, you had a  
21 fiduciary obligation to go to the lawyers and say,  
22 "Hey, did my mother -- brother change the trust? Let  
23 me see the trust documents.

03:38:28PM

24 A. No. I wouldn't do that.

25 Q. Why not?

03:38:39PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Because I wouldn't have any idea that he  
2 changed anything.

3 Q. You testified earlier that you knew in 2018  
4 he did, in fact, go and change his trust?

5 A. Well, that was misnomer then. I didn't  
6 understand you correctly.

7 Q. All right.

8 MR. SHERMAN: We can stop at this point. I  
9 have lots more questions. I haven't even -- I'm not  
10 even half done.

11 MS. RABBANI: I understand.

12 BY MR. SHERMAN:

13 Q. By the way, just for your information, I  
14 have text messages between you, Mr. Dawood, in which  
15 you acknowledge that the proceeds from the Hawaii  
16 property were, in fact, to be sent to the B of A  
17 account.

18 A. Well, let me see them.

19 Q. I'm happy to do that.

20 MR. SHERMAN: Are we still on the record?

21 May we have this exhibit --

22 MS. RABBANI: Do you have a copy of that for  
23 us?

24 MS. REGNIER: I do.

25 ///

03:38:48PM

03:38:59PM

03:39:10PM

03:39:24PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Defendant's Exhibit 8 was marked  
for identification by the court  
reporter and is attached hereto.)

BY MR. SHERMAN:

**Q. There's an e-mail from you to Jim from  
Bobby. Who's Bobby?**

03:39:45PM

**A. I don't know.**

**Q. What is your e-mail address?**

**A. Currently?**

**Q. Well, was it TMBGRP@aol.com? Would you  
please look at this e-mail.**

03:40:00PM

**A. Yeah. The name is wrong. It's my initials.  
Who's Jim Bobby? Who are Jim and Bobby?**

**Q. Who do you think they are?**

**A. No. I don't know.**

03:40:53PM

**Q. You don't know who Jimmy is?**

**A. Oh. Jim Dawood.**

**Q. Doesn't this refresh your memory that, in  
fact, you knew that the money was going to be sent to  
the B of A account regarding the sale of the Hawaii  
property? Isn't that what this e-mail is about?**

03:41:05PM

**A. I don't know what it's about.**

**Q. Well, you wrote it.**

**A. Yeah. I wrote it, and you're talking  
about -- you're talking about October the 15th.**

03:41:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Right after the sale of the Hawaii property.  
2 And you wrote Jim and said and told him --

3 A. Two days after my brother passed away.

4 Q. It's not two days after your brother passed  
5 away.

03:41:41PM

6 A. Yeah. Wait a minute. It's Tuesday, October  
7 the 15th.

8 Q. Your brother died July 13th.

9 A. About a month.

10 Q. You were -- you sent an e-mail to Jim saying  
11 that the guy from Title Guaranty called you to  
12 confirm the B of A wire instructions to send the  
13 money from the sale of the Hawaii condo. That's what  
14 that e-mail says.

03:41:52PM

15 MS. RABBANI: Is there a question? I  
16 think --

03:42:12PM

17 BY MR. SHERMAN:

18 Q. Isn't that what the e-mail says?

19 A. It's kind of blurred. It doesn't read like  
20 you stated.

03:42:24PM

21 Q. In other words, all of these events are very  
22 blurry to you. Is that your testimony?

23 A. No. I'm not saying that.

24 Q. What are you saying?

25 A. I'm saying that some of the assumptions that

03:42:33PM

## COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 you're making are incorrect. That's what I'm saying.

2 **Q. Okay.**

3 A. How can I prove this date, that date, the  
4 other date, a week from now? How can I do that? Can  
5 you do that? If you can, you're a Houdini. You're  
6 great. Congratulations. I can't do that.

03:42:47PM

7 **Q. You're having trouble remembering what**  
8 **happened in 2018 and 2019, aren't you?**

9 A. Well, when you're in the hospital having a  
10 surgery in your heart, you know, wouldn't you?

03:43:08PM

11 **Q. You're having trouble remembering what**  
12 **happened in 2018 and 2019 for whatever reason?**

13 A. That's a generalized statement. I'm not  
14 making that as a blanket statement.

15 **Q. But as far as what document you signed and**  
16 **business relationships you had, it's all kind of**  
17 **blurry, isn't it?**

03:43:23PM

18 A. Well, they can give you drugs and different  
19 things when you're in the hospital. You don't know  
20 what you're doing; isn't that right?

03:43:34PM

21 **Q. Thank you very much.**

22 A. You're welcome.

23 MS. RABBANI: Let's go off the record.

24 THE VIDEOGRAPHER: We're off the record the  
25 time is 3:43 P.M., Pacific Time.

03:43:47PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Whereupon a recess was taken.)

THE VIDEOGRAPHER: We're back on the record.  
The time is 3:51 P.M., Pacific Time.

FURTHER EXAMINATION

BY MS. RABBANI:

01:54:12PM

Q. Mr. Battaglia, do you have some trouble remembering specific dates on which you might have read specific documents a few years back?

A. I think everyone does.

Q. Do you have a clear recollection of your relationship with Jimmy Dawood?

03:51:38PM

A. I believe I do.

Q. And are you certain, sitting here today, that you never asked him or authorized him to invest that trust money in any other project?

03:51:55PM

A. Yes. I am sure of that.

Q. You testified earlier that on at least one occasion, Mr. Dawood had you sign some documents. Do you remember that?

A. Yes.

03:52:10PM

Q. Were there occasions when he had you sign documents and you didn't read them?

A. Yes, there were.

Q. Is it possible that he had you sign documents relating to the sale of the Hawaii

03:52:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 properties?

2 A. It's possible.

3 Q. Do you remember whether he ever had a notary  
4 there when you signed documents?

5 A. Well, he took me to several of them that he  
6 seemed to know personally.

7 Q. So that happened -- did that happen more  
8 than once?

9 A. Yes.

10 Q. Do you remember whether he ever had you sign  
11 something like electronically, on an iPad or a  
12 computer?

13 A. No.

14 Q. Okay. Did you understand that ownership of  
15 the Hawaii properties was at some point transferred  
16 away from you?

17 A. Well, that's confusing. Because he said he  
18 was going to do -- put it into an entity for a period  
19 of time to, quote, unquote, to protect me, and that  
20 it would be released at a period of time again to  
21 protect me. That was my understanding.

22 Q. So did you understand that ownership of the  
23 Hawaii properties would come back to you after some  
24 time?

25 A. Absolutely yes.

03:52:36PM

03:52:48PM

03:53:03PM

03:53:25PM

03:53:39PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did you ever want to part with the Hawaii  
2 properties permanently?

3 A. Well, the thought crossed my mind, you know,  
4 but when you're dealing with the dynamics that I was  
5 dealing with, it was pretty pretty difficult to make  
6 ironclad statements that you totally would called.

03:53:57PM

7 Q. Did you ever agree to sell either Hawaii  
8 property permanently? In other words, to permanently  
9 part with your interest in it?

10 A. We talked about that.

03:54:18PM

11 Q. Did you ever agree to do it?

12 A. I don't recall.

13 Q. Would you ever have agreed to sell your  
14 interest in either condominium suite permanently --

15 A. No.

03:54:33PM

16 Q. -- for 200 -- not at all?

17 A. No. Never.

18 Q. If you were going to sell it, would you have  
19 agreed to sell it for \$200,000?

20 A. Absolutely not. Not when the first one,  
21 906, was worth over well over a million. And the  
22 other one, well over \$500,000. Well over these  
23 amounts.

03:54:41PM

24 Q. And what was your understanding of those  
25 values based on? Was it based on --

03:54:59PM



COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Prior sales.

2 Q. -- prior sales of similar units?

3 A. Yeah. In Hawaii. Yeah.

4 Q. Do you need a minute with the phone?

5 A. Yeah.

03:55:45PM

6 Can't make it work.

7 Q. Do you need help?

8 A. Yeah. I'm trying to turn it off.

9 Q. I have like two more questions --

10 A. Go ahead.

03:56:22PM

11 Q. -- and then we'll be done and take a break  
12 and you can have it back.

13 Do you have any knowledge, one way or  
14 another, whether your brother Jack ever knew  
15 Jimmy Dawood?

03:56:35PM

16 A. I'm positive he did not.

17 Q. He did not.

18 A. No.

19 Q. And as far as you understand, Jimmy Dawood  
20 was never intended to be a beneficiary of your  
21 brother's trust?

03:56:41PM

22 A. Absolutely not intended or known to be.

23 MS. RABBANI: I don't have any more  
24 questions.

25 THE WITNESS: At this time I don't really

03:56:59PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 have any more questions.

2 MS. RABBANI: Thank you --

3 THE WITNESS: I may have some, but I don't  
4 recall anything urgent that I bring up at this point.

5 MS. RABBANI: Okay. And I'm done.

03:57:14PM

6 THE WITNESS: I hope that the statements  
7 that I have made are as clear as possible, you know,  
8 due to my recollection.

9 MS. RABBANI: We appreciate you sitting  
10 here. I know this is not the easiest day to do it.

03:57:25PM

11 THE WITNESS: It's okay.

12 MS. RABBANI: But I'm done, so can we go  
13 ahead and go off the record.

14 THE VIDEOGRAPHER: Here concludes Volume I  
15 in video deposition of Thomas Michael Battaglia, and  
16 we're off the record at 3:57 P.M., Pacific Time.

03:57:37PM

17 (Whereupon the deposition was  
18 adjourned at 3:57 P.M.)  
19  
20  
21  
22  
23  
24  
25

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

CERTIFIED SHORTHAND REPORTER'S CERTIFICATE

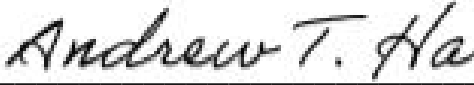
I, ANDREW T. HA, CSR #14537, hereby certify that I am a Certified Shorthand Reporter in and for the State of California.

I hereby certify that the witness in the foregoing deposition, THOMAS BATTAGLIA, was by me duly sworn to testify the truth, the whole truth and nothing but the truth; that said deposition was taken at the time and place therein set forth; and was taken down by me in stenotype and transcribed into typewriting by computer; and that the deposition is a true record of the testimony given by the witness.

That before completion of the deposition, review of the transcript [ ] was [x] was not requested. If requested any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am neither counsel for, nor related in any way to any party to said action, nor otherwise interested in the result of outcome thereof.

Date: 10/27/2023

  
\_\_\_\_\_  
ANDREW T. HA, CSR NO. 14537  
STATE OF CALIFORNIA

# Exhibit B

## [to be lodged]